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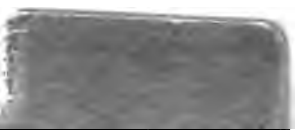
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RERUM BRITANNICARUM MEDII ÆVI
SCRIPTORES

OR

CHRONICLES AND MEMORIALS OF GREAT BRITAIN
AND IRELAND

DURING

THE MIDDLE AGES.

THE CHRONICLES AND MEMORIALS
OF
GREAT BRITAIN AND IRELAND
DURING THE MIDDLE AGES.

PUBLISHED BY THE AUTHORITY OF HER MAJESTY'S TREASURY
UNDER THE DIRECTION OF THE MASTER OF THE ROLLS.

ON the 26th of January 1857, the Master of the Rolls submitted to the Treasury a proposal for the publication of materials for the History of this Country from the Invasion of the Romans to the reign of Henry VIII.

The Master of the Rolls suggested that these materials should be selected for publication under competent editors without reference to periodical or chronological arrangement, without mutilation or abridgment, preference being given, in the first instance, to such materials as were most scarce and valuable.

He proposed that each chronicle or historical document to be edited should be treated in the same way as if the editor were engaged on an *Editio Princeps*; and for this purpose the most correct text should be formed from an accurate collation of the best MSS.

To render the work more generally useful, the Master of the Rolls suggested that the editor should give an account of the MSS. employed by him, of their age and their peculiarities; that he should add to the work a brief account of the life and times of the author, and any remarks necessary to explain the chronology; but no other note or comment was to be allowed, except what might be necessary to establish the correctness of the text.

The works to be published in octavo, separately, as they were finished; the whole responsibility of the task resting upon the editors, who were to be chosen by the Master of the Rolls with the sanction of the Treasury.

The Lords of Her Majesty's Treasury, after a careful consideration of the subject, expressed their opinion in a Treasury Minute, dated February 9, 1857, that the plan recommended by the Master of the Rolls "was well calculated for the accomplishment of this important national object, in an effectual and satisfactory manner, within a reasonable time, and provided proper attention be paid to economy, in making the detailed arrangements, without unnecessary expense."

They expressed their approbation of the proposal that each Chronicle and historical document should be edited in such a manner as to represent with all possible correctness the text of each writer, derived from a collation of the best MSS., and that no notes should be added, except such as were illustrative of the various readings. They suggested, however, that the preface to each work should contain, in addition to the particulars proposed by the Master of the Rolls, a biographical account of the author, so far as authentic materials existed for that purpose, and an estimate of his historical credibility and value.

Rolls House,
December 1857.

Dear Books

OF THE REIGN OF

KING EDWARD THE THIRD.

YEAR XVI. (SECOND PART.)



Dear Books

OF THE REIGN OF

KING EDWARD THE THIRD.

YEAR XVI. (SECOND PART.)

EDITED AND TRANSLATED

BY

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INTRODUCTION.



INTRODUCTION.

THE plan on which the five preceding volumes have been edited has been continued in this. Every case which occurs in the *Liber Assisarum*, or in Fitzherbert's *Abridgment*, has been traced and noted. The rolls have been searched, as before, for the records of the cases reported; and as I am now carrying out, *pari passu* with the work upon the Year Books, my scheme¹ of a Calendar of the rolls of *Placita de Banco*, it is hardly possible that any cases on those rolls which are susceptible of identification with reported cases can have escaped notice.

Reports,
Records,
and Cal-
endar of
*Placita de
Banco.*

The minute inspection of the rolls which is necessary in the preparation of the Calendar, has also afforded the means of identifying all the Counsel whose names appear in the reports of the Common Bench. The "countors," are of course not mentioned in the record in connexion with the cases which they have argued, but they are mentioned in connexion with the levying of fines. The reason of this may be inferred from the statute *Modus levandi fines*.² When the original writ is read, in the presence of the parties, before the Justices, then a countor shall say thus:—"Sir Justice we pray leave to come to terms." The Justice shall say to him, "What will Sir Robert give?" naming one of the parties. Then, when they shall have agreed as to the

Names of
Counsel
now
authorita-
tively as-
certained.

¹ It would appear from the *Law Journal* of 29 May, 1897, that this scheme has the approval of the profession: "The rolls of their Courts are the treasures of the lawyers of England, and it is for them to insist that they shall be efficiently calendared."

² *Temp. incert*, according to the *Statutes of the Realm*; 18 Edw. I. St. 4, according to Ruffhead, &c.

sum of money given to the King, the Justice shall say, "Proclaim the Peace." And then the countor shall say thus :—"The Peace is granted to you on these terms,"¹ according to the nature of the fine.

These are the general directions. The particular instances appear upon the roll in the following form :— "Nicholas de Bernham, of Much Hadham, and Alice his wife give one half-mark for leave to come to terms (*pro licentia concordandi*) with Robert Thomas, of Much Hadham, on a plea of covenant in respect of tenements in Much Hadham. And they have the chirograph by John de Rokele, countor (*narratorem*), &c." Entries of this kind, few and far between, are scattered about the rolls, but it is found that if the names of the countors are taken down whenever they occur, they include all those mentioned in the reports. They are in extended form, too, while those given in the reports are abbreviated. On this authority a list of countors is now added to the Tables at the end of the Introduction.

The MSS.
used, and
their pecu-
liarities.

The MSS. which have been used for the text are the Temple MS., the Lincoln's Inn MS., the Harleian MS., No. 741, and the Additional MSS. in the British Museum, numbered respectively, 16,560, and 25,184, all of which have already been described. It has been suggested by Professor F. W. Maitland in the *English Historical Review* (vol. xii., p. 350), that the references to the two last-mentioned MSS. by number at full length, are needlessly cumbersome, and that a letter might with advantage be substituted. A considerable portion of the text had been printed off before the notice appeared, and I was therefore unable to avail myself of the suggestion immediately, without destroying the uniformity of the foot-notes; but I am grateful for this, as for all other criticisms which may tend to improve the Rolls edition of the

¹ From the original French. The editions is not in all respects correct. | translation given in the printed rect.

Year Books. Some other MSS. will be used for future volumes, but I shall bear in mind the method proposed.

Some of the reports, it will be observed, have been found in the Lincoln's Inn MS. alone, and it may also, perhaps, be observed that the French of these reports differs considerably from the ordinary French of the Year Books of the period. The text, however, as printed, has been carefully compared with the MS., and whatever faults there may be in it are due, not to the carelessness of the editor (as might, perhaps, at first sight be suspected), but to the style of the scribe.

In the additional MS. No. 25,184 eight cases were found at the end of Trinity Term, which, after careful comparison were ascertained to be the reports already printed as Nos. 20 to 27 of Easter Term, 14 Edward III., without any important variations. So also in the additional MS. No. 16,560, was found under Trinity Term the report which is No. 55 of Michaelmas Term, 15 Edward III. It is by no means unusual to find a report under one Term in one MS. and the same report, in the same form, under another Term in another MS., and great vigilance is consequently necessary in order to avoid needless repetitions in print.

In Trinity Term, 16 Edward III., with which this volume commences, the Court of Common Pleas resumes its normal appearance. The Court had been disorganised when Stonore, the Chief Justice, as well as Shardelowe and Sharshulle, Puisne Justices, had fallen under the King's displeasure, and been accused of malpractices in their office.¹ There had been several changes in the constitution of the Court in the interval. In Easter Term, 16 Edward III., the number of Judges had been reduced to two—the Chief Justice and one Puisne. In Trinity Term, however, Stonore, Shardelowe, and Sharshulle, returned to their respective posts, "*recon-*

Reconstitution of the Court of Common Pleas in Trinity Term.

¹ See Y. B. 14-15 Edw. III., Introd., p. xxii. and pp. liii.-liv.

ciliati," as one of the MSS. of Year Books expresses it. They were, in fact, newly appointed by Patent.

Important
and inter-
esting
matters
in the
volume.

It is to be hoped that the reports of the two Terms now published will be found to contain matter of at least as much importance and interest as their predecessors. They abound with details which illustrate not only their own period, but earlier times also. These can not all be mentioned in an introduction to a volume of unusual bulk, but there are some which cannot be passed over without special notice. It will be seen not only, as usual, that the records throw light upon the reports, but that the reports sometimes afford the means of identifying a whole class of records.

Mode of
citing
cases.

The mode of citing previous cases, of which the instances are rare at this period, is commonly somewhat vague, and at times a little quaint. The personal element is almost always conspicuous, as opposed to the reference by time and place. The case of *A. de B.* (let us say) is mentioned as being presumably within the knowledge of Judges and Counsel. Sometimes it can be identified with a little trouble, sometimes not; but there is rarely, if ever, any definite reference to a roll by number or to a report by folio.¹ Sometimes it is treated as a pleasant reminiscence of old days, when Judges and Counsel were younger, and acting in Court in different capacities. Thus Sharshulle, the Judge, says to Pole, the Serjeant-Countor, "When you and I were apprentices, and Sir William de Herle and Sir John Stonore were Serjeants, you saw that Sir John came to the bar to pass a fine for a knight on a writ of covenant, and Sir William was counsel for another person who had a writ of debt against the same knight. When he saw the knight at the bar, Herle instantly counted against him on the writ of debt."² This is

¹ The references by Term, of which there are instances in the present volume, are not references made in Court, but references of

the reporter, or of his commentator, *e.g.* p. 276 and p. 290.

² No. 3 of Trinity Term (p. 6).

all very pleasant and amicable, though, perhaps it does not give all the encouragement that could be desired to search for the name of the knight five centuries and a half afterwards.

In a case in Trinity Term,¹ will be found in the translation the words "idiot" and "lunatic." It may, perhaps, be well to point out that these terms are open to criticism as a rendering of the word "sot," on the one hand and of the word "fol" on the other. To some extent they may be regarded as a putting of new wine into old bottles, because the expression "lunatic" does not appear to have been yet known to the English law. The idiot was, according to the Latin record, "*fatuus naturalis*;" the lunatic, according to the report, was a "fol," but not a "fol" from birth, and possibly having lucid intervals. The use of the word "idiot" may be justified by an almost contemporary case;² but the word "lunatic" seems properly to belong to a later period.³

Idiot and
lunatic.

Still a translation, to be worth anything, should be idiomatic; and the nearest modern legal equivalent for the "fol" of this report seems to be not "fool" or "madman," but "lunatic."

An idiot might be described in French not only as a "sot," but also as a "fol"; but in that case he was a "fol naturel," which is the equivalent of the Latin "*fatuus naturalis*." A "fol," therefore, is a generic term, including both idiots and persons otherwise *non compotes mentis*; but when it is used to express the meaning of idiot, it requires the addition of the word "naturel."² "Sot" and "fol naturel" thus appear to be equivalent, though "fol" by itself may be used as an antithesis to "sot."

¹ No. 71 (pp. 236-240).

² Fitz. Abbr. *Scire facias*, 10 (M. 18 Edw. III.).

³ As Mr. A. Wood Renton has remarked (*Law of and Practice in Lunacy*, p. 3), "the term lunatic

" . . . is not to be found in the statute, *de Prærogativa Regis*, nor in any form of the old writ, and does not appear in the statute book till the reign of Henry VIII."

The Chan-
cellor's
appear-
ance in
various
Courts.

By a curious coincidence Parning,¹ the Chancellor makes his appearance in two successive cases in other Courts than his own Chancery. We find him in the Court of Queen's Bench in a case² in which the reversal of the note of a fine was under consideration. It is, perhaps, worth remembering that a transcript of the note had in the ordinary course been brought into the Chancery by *Certiorari*, and sent thence into the Court of Queen's Bench by *Mittimus*. It can hardly be said that the Chancellor was not concerned in the matter, when he followed the transcript from the Chancery into the King's Bench. We find him, however, unless five MSS. of Year Books give a wrong name, in the very next report, in the Court of Common Pleas.³ The case was a *Quare impedit*, in which some difficult points arose, and the inference seems to be that in these two, as in some other instances, the Chancellor gave his assistance, in ordinary course, to the Courts in which a Chancery writ was returnable, and an original writ of *Quare impedit* was returnable in the Common Bench.

Wager of
Law: new
light on its
applica-
tion.

There are several cases in the present volume which bear upon the history of modes of trial and of the law of evidence. One of them⁴ is interesting as showing a change in the application of the Wager of Law. In an

¹ It may be considered almost certain that this Chancellor's name was not Parning at all; but as Parning he has always been known in the profession, since the time of Coke, at any rate, and as Parning he will probably continue to be known in future. As Professor Maitland has pointed out, the Taltarum of Taltarum's case had, in fact, another name; but nevertheless the case will always be known as Taltarum's. Though the letters "n" and "u" are practically indistinguishable in most of the contemporary MSS., the distinction is well maintained

in the Great Rolls of the Exchequer, and in them the letter following the "r" in Parning's name is certainly "u." One of the MSS. of Year Books, moreover, has the form "Parwyng," which is as good evidence as any spelling in those MSS. can be. (Mich., 16 Edw. III., No. 69.)

² Mich., 16 Edw. III., No. 28 (pp. 354-356).

³ Mich., 16 Edw. III., No. 29 (p. 360).

⁴ No. 12 of Trinity Term, pp. 24-29.

action of Account the plaintiff alleged that the defendant was his receiver, and had received his moneys by the hands of certain persons named. The defendant admitted that he had received certain of the plaintiff's moneys, but by the hands of persons other than those named by the plaintiff. It was thereupon argued on the one hand that the question as to the persons from whom the defendant received ought not to be tried by the jury, and on the other hand that it ought. One of the arguments of Thorpe, for the defendant, was this: "It was formerly the custom to count, in general terms, that the defendant was the plaintiff's receiver, without saying by whose hands; and afterwards, in order to oust the defendant from his wager of law, the mode was invented of counting of a receipt by the hands of other persons; wherefore this is of the substance."

This throws some new light upon the Wager of Law, and shows that it was regarded as a disadvantage to the party against whom it was waged, in or before the reign of Edward III. Thorpe's statement on the point was not contradicted, and is fully borne out by cases which appear on the *Placita de Banco* of the period. No defendant ever wagers his law when the statement against him in an action of Account is that he received the plaintiff's money by the hands of a third person. Where the allegation is that the defendant received the money from the plaintiff's own hands, he does commonly wage his law, though he may occasionally (apparently at his option) put himself upon the country.

There is obviously a principle underlying the distinction drawn between receipt from the hands of a party and receipt from the hands of some other person. In the absence of any specialty the statement of Nokes that he gave a certain sum of money to Styles, with which Styles was to traffic for the benefit of Nokes, and to render an account, becomes of doubtful value when Styles wagers his law. In that case the Court, at the period now under consideration, would require Styles to

wage his law "himself with the twelfth hand." The meaning of this was that if Styles swore that he was not Nokes's receiver, and found eleven other persons to hold up their hands and swear that he had sworn the truth, or that they so believed, Nokes's case was at an end. It is true that Nokes would, according to the record, have previously produced his "suit" to establish his case, the suit being in theory persons supporting the plaintiff's statement of claim. At this period, however, the production of suit was commonly only a form of words.

It is not very difficult to see why the wager of law could not be accepted to disprove the statement that Styles had received Nokes's money by the hands of Thorpe, or of Thorpe and others. Styles, with his twelfth hand, all swearing in unison as between him and Nokes, could not reach beyond the two parties. It was no longer a question of one man's word against another's, or of the number of one man's friends or fellow-swearers against that of another's. A third person or more had now appeared in the field. As between the two parties the Court could be informed of the facts (whether rightly or wrongly is immaterial from the legal point of view of the period) by the wager of law, which, as the number of swearers was fixed by the Court, was necessarily sufficient to countervail the "suit," if any suit was in fact produced. This, however, would not bind Thorpe or any others, and when they were introduced, the only way in which the Court could be informed of the facts, if disputed, was by a jury.

The principle governing its use in personal actions.

Here probably lies the principle originally governing all the cases in which the wager of law was permitted. They were cases in which the plaintiff or demandant made the allegation without any other proof than his "suit," and in which the defendant or tenant, being the only person affected, denied it. It was for this reason that the wager of law was allowed in actions of debt without specialty, and in some actions of detinue.¹ The truth of

¹ For some exceptions, and the reasons, see Co. Litt., 295.

the matter was or might be known only to the parties, the word of each of whom was as good as that of another. If two persons were alone, and one lent the other some money, it is obvious that those two persons alone would know the facts. If the defendant could find eleven persons to swear that they believed in his veracity, there might be some presumption that he was of a truthful character and ought be believed on his oath. This presumption (weak as it might be) would suffice to gain a judgment in his favour.

It was not, however, in personal actions that the wager of law was most used in the reign of Edward III. It occurs far more frequently in real actions for the purpose of avoiding the consequences of an alleged default. At first sight it is not quite clear that the principle which can be recognised in personal actions can also be recognised in the others; but upon a closer inspection it can. The usual form in which these cases appear on the rolls is the following:—A. heretofore demanded against B. certain tenements in C., so that the Sheriff was commanded to summon B. to be in Court on a certain day to answer A. as to the plea aforesaid. On that day B., having been summoned, made default, so that the Sheriff was then commanded to take the tenements into the King's hand, and to summon B. to be in Court on a certain other day to answer A. as well in respect of the principal plea as in respect of the default. The Sheriff makes a return, mentioning the day of taking the tenements into the King's hand, and stating that he has summoned B. On the day last given both parties appear, and A. holds absolutely (*præcise se capit*) to B's. previous default. B. then pleads that the default ought not to harm him in this behalf, because he says that he was never summoned to be in Court on the first-mentioned day to answer B. as to the plea aforesaid, and this he is prepared to defend against A. *and his suit* as the Court shall adjudge. Therefore it is adjudged that B. do wage his law against A., himself with the twelfth hand.

The same principle in real actions.

It might be supposed that in a case of this kind the Sheriff was concerned as well as the parties, and consequently that the question of summons or non-summons did not rest simply between the parties and their respective "suit" or "law." The invariable practice, however, was to adjudge the wager of law upon a plea of non-summons. The reason apparently was that little importance was attached to the first summons, real or alleged, because the tenant lost his land by default only when it was default after default, or, in other words, if he failed to appear and excuse his first default, after his lands had been taken into the King's hands by the Grand *Cape*. The Sheriff's return was not that the tenant had been summoned by certain persons, but only that he had been summoned, and was merely formal. The summons was not effected by the Sheriff himself, if effected at all, and consequently the settlement of the dispute did not in any way depend upon him personally. He did not inform the Court of the names of the alleged summoners, who, had they been named, might have been used in a trial *per testes*. The question accordingly resolves itself into one between party and party, supported on the one side theoretically by the demandant's "suit," and practically on the other side by the tenant's "law."

Proof *per*
testes of
notice in
Scire
facias.

A summons, however, to appear in accordance with a writ of summons, was a very different thing from a warning to appear in accordance with a writ of *Scire facias*. In the latter case, if the warning was denied by the party, the trial of the fact was *per testes*. A good illustration of this occurs upon a writ of Deceit in the King's Bench reported in the present volume.¹ Execution having been sued upon a Statute Merchant, the Sheriff returned that the obligor was dead. A *Scire facias* accordingly issued to warn the ter-tenants of the lands held by him on the day of the execution of the recognisance. To this *Scire facias* the Sheriff

¹ No. 9 of Michaelmas Term, pp. 292-295.

returned that the ter-tenants had been duly warned by two persons named. The ter-tenants made default, and execution was thereupon awarded against them. They however, sued a writ of Deceit, alleging that they had never been warned at all. A *Venire facias* issued to bring the parties into Court together with the two *præmunitores*, *garnissours*, garnishers, or persons named by the Sheriff as having warned the ter-tenants. Each of these two was separately sworn, and said on oath that he knew nothing of the alleged warning to the ter-tenants, who had never been warned by him. The obligee afterwards made default on the day given to hear judgment, and the ter-tenants had restitution of their lands and tenements, together with the mesne profits.

It is thus tolerably clear that the trial *per testes*, in relation to the subject matter to which it was applicable, was in full vitality in the reign of Edward III., though the application of the wager of law had been curtailed.

The proof, in an action of Dower, of the death of the husband by witnesses, and in no other manner, has a curious illustration in one of the reports now published,¹ as illustrated by the corresponding record.

And of death in Dower: no other proof allowed.

One Edith, whose husband was, or had been, William Oky, brought an action of Dower for a third part of a messuage in Coventry. A vouchee, becoming tenant by warranty, alleged that Roger Oky, the husband, was still living at Carlisle. To this Edith replied that her husband died, three years before, in the King's army at Antwerp. A day was therefore given to the parties, on which Edith was to prove that her husband was dead, or the vouchee that he was living. Though there are two independent reports of the case, nothing appears in either as to the alleged death at Antwerp, which is stated in Edith's plea in the record. In one of the

¹ No. 27 of Trinity Term, pp. 86-90.

reports, however, it is mentioned that on the day given (the Quinzaine of Trinity), which date agrees with the roll, the widow attempted to prove that her husband died at Bristol, and produced a certificate sealed with the seal of the Mayor and Commonalty of the city in witness of her husband's death. The roll is silent as to this portion of the case, but according to the report the Court would not accept the document as evidence, "because in such a case the matter must be "proved by mouth of man."

On the same day, however, according to the record (the Quinzaine of Trinity), the widow produced her proofs of the death—neither at Antwerp nor at Bristol, but at Ipswich. The "proofs" were two witnesses: Roger le Hunte, of Ipswich, of the county of Suffolk, and Robert Hervy, of the county of Chester. Roger, being separately sworn and examined, said that Edith's late husband died at Ipswich on Friday next after the Feast of St. Botulph in the year 12 Edward III., and was buried in the churchyard of the church of St. Laurence, Ipswich, on the southern side of the church towards the west, and that he was present and saw the burial. In like manner Robert Hervy, the other witness, was sworn and examined separately, and said that he was present and saw the burial, and agreed in all respects with his fellow-witness, Roger le Hunte.

The attorney on the other side (of the tenant by warranty) was asked whether he produced any witnesses to prove that William Oky was alive, and said that he did not.

Judgment was therefore given for Edith to recover her seisin.

Its doubtful value.

If the Court of Common Pleas was satisfied, in the year 1342, that William Oky was buried at Ipswich on a particular day in the year 1338, the fact ought not, perhaps, to be doubted in the year 1899. Still, if his wife believed or affected to believe, at one time, that he died on foreign service at Antwerp, and the Mayor of

Bristol attached the Bristol common seal to a certificate that he died at Bristol, it is a little difficult to suppress effectually all the doubts which suggest themselves.

According to both reports, one of the witnesses was under age; but in neither is it stated which of the witnesses it was. According to the record, the address of one of the witnesses was "the county of Chester," but there is nothing to show whether this was the witness who was under age or not. One Ipswich witness professed to have seen the burial at Ipswich, but no other Ipswich witness was produced. Whether the Cheshire man, Robert Hervy, was staying with an Ipswich friend, Roger le Hunte, and so accompanied him into the churchyard, or went there as a stranger, out of curiosity, how either of them was able to identify the person being buried as William Oky, and how William Oky, a Coventry man, came to be buried at Ipswich, rather than at Coventry, or Bristol, or Antwerp, or anywhere else, can only be subjects of conjecture.

It must, however, be remembered that all the Court had to do was not to arrive at absolute truth, but to take care that the death was properly proved according to the law of the period. If the widow produced sufficient lawful witnesses to show that her husband was dead, and none were produced to show that he was living, that was a sufficiently good trial *per testes*. In such a trial the Court was informed directly by the witnesses and not by a jury. There was no cross-examination, and if the witnesses were competent, and not contradicted by others, the fact was, in the eyes of the Court, that which they stated.

The details of this curious case may, however, enable us to form some opinion as to that which really occurred. There is no reason to doubt that substantial justice was done, and that William Oky was dead. But in order to believe this it is not necessary to believe that he was buried at Ipswich. It is only reasonable to suppose that the wife knew her husband had gone with the

army on foreign service, and that, as was originally stated, she had heard of his death at Antwerp. There might, however, have been insuperable difficulties to prevent the proof of death at this particular place, and the public opinion of the time was not at all opposed to oath-taking of a kind which would now be considered a misdemeanour.¹

Other
evidence
of death.

In other cases the Court satisfied itself as to the fact of a death in a different manner. Thus, in *Scire facias* on fine against a man and his wife, on which issue had been joined, the husband came at *Nisi prius* and said that his wife was dead. Her default was then recorded, but not the husband's statement as to her death. He afterwards came into the Court of Common Pleas and repeated the statement. It was then argued, on the one hand, that the allegation did not lie in his mouth, and, on the other hand, that it did. Before the point was decided, there appeared one who alleged that the husband and wife held the tenements as in right of the wife, that the wife was dead, and that the husband held by the curtesy of England; and he prayed to be admitted to defend, as having the reversion expectant on the husband's death. Then followed an argument touching the admission of the reversioner, as to which Shardelowe, J., decided, "before we can say anything about him who prays to be admitted, it is proper to deliver the husband. Shew why he shall not have the averment, since it is not his fault that his wife did not come, if she be dead, and on his day that he had by *Nisi prius* he did all that he could do." After further argument, the Court put the demandant's attorney to answer whether the woman was dead or living. He said that he did not know. Upon this judgment was given for the tenant (the husband). In this case, there-

¹ For further particulars as to Trial *per testes*, see Thayer, *The Older Modes of Trial*, 5 Harvard Law Review 51; and Preliminary

Treatise on the Law of Evidence, 17-24; 2 Pollock and Maitland, *History of English Law*, 634.

fore, the Court accepted the statement of a husband that his wife was dead, because the attorney of the opposite party could not say that she was alive.¹

One of the cases of Trinity Term² is not only interesting for various other reasons, but is also of value as throwing a new and unexpected light on a long-neglected and almost forgotten class of records. It was alleged that a certain count or declaration, as entered on "the roll," was self-contradictory, because it represented in one place that an Abbess of Barking, who was plaintiff, was herself party to a certain covenant, and in another place that one of her predecessors was the party. The roll was brought and inspected, when it was found that the entry had originally been made as alleged, but that it had been subsequently amended. Counsel then said, "Although the roll may have been amended by the clerks, you will find that the amendment was made after our exception. Besides, the King's Roll is different from your roll now." "Your Roll," as the Justices are being addressed, must be (as indeed it is described in the margin) the Roll of the Justices, and this is the ordinary Roll of *Placita de Banco*, called above "the" Roll. It was ascertained by inspection that the King's Roll varied from this, and counsel at first maintained that the record was therefore not good, but afterwards waived the point.

It became, of course, the duty of the Editor to discover, if possible, what was the "King's Roll," upon which this curious argument had arisen. There are no rolls known by that name among the records of the Court of Common Pleas in the Public Record Office, and no continuous series of plea rolls running parallel with the ordinary rolls of *Placita de Banco*. The task was one of no small difficulty, because, although the case is reported as of Trinity Term, there is no corre-

The Plea
Rolls of
the
Common
Bench :
the Roll of
the Jus-
tices and
the Roll of
the King.

Search for
the King's
Roll in the
Public
Record
Office.

¹ M. 16, No. 22 (pp. 340-342).

² No. 32 (pp. 118-142); record, Appendix (pp. 593-597).

sponding record in the *Placita de Banco*, or Justices' Roll, of that term, and it was necessary to discover not only the King's Roll, whatever that might be, but the ordinary Roll of *Placita de Banco* of some other Term, in which the case had been recorded.

Discovery
of it
among the
records of
the Court
of Queen's
Bench.

As it happened, the King's Roll of Trinity Term was first found by a fortunate guess, and in the end led the way to the record of the *Placita de Banco* of the previous Hilary Term, but by some very crooked paths. The King's Roll of Trinity Term contains only the conclusion of the case, much injured by damp, but the manner in which the roll is made up suggested the inference that the earlier portions would be found on earlier rolls. This particular King's Roll is known in the Public Record Office as an "Extract Roll" of the Court of Common Pleas; but the search backwards was immediately stopped by a gap, as there were no Common Pleas "Extract Rolls" known for either the Easter or Hilary Term preceding. It seemed almost hopeless to look for them among the records of other Courts, but it was in the end ascertained that there were so-called "Extract Rolls" of the required Terms among the records of the Court of Queen's Bench. When these were examined they proved to be the missing King's Rolls of the Court of Common Pleas; and that of Hilary Term contained a correct reference to the *Placita de Banco* of the same Term, and thus solved two problems at once. It showed where the record was to be found among the *Placita de Banco*, and it was itself manifestly the "Roule le Roi" of the report, still differing from the Roll of the Justices precisely in the manner described by Robert de Thorpe more than five centuries and a half ago.

Most of
this series
of King's
Rolls as-
signed to
the wrong
Court.

All the King's Rolls of the Court of Common Pleas are described in the Public Record Office as "Extract Rolls," and most of them as documents of the Plea Side of the Court of Queen's Bench. A few of them only have remained in their proper place among the records

of the Court of Common Pleas. There is no distinction of kind between those which are found as belonging to one Court and those which are found as belonging to the other. Those found in one place supplement the deficiencies of those found in the other, as already explained in the case of the rolls of the first three Terms of 16 Edward III.

It appears from various passages in the rolls of the Court of Common Pleas that there was in that Court an officer known as the King's Clerk in the Common Bench. It was probably one of his duties to superintend the preparation of the King's Roll, as distinguished from the ordinary or Justices' Roll of *Placita de Banco*. The King's Roll, as it has come down to us, is not a complete transcript of the Justices' Roll, nor were matters entered in the same order. In the roll of the Justices, which was the principal roll of *Placita de Banco*, there were spaces left for the insertion of later proceedings. If, for instance, a case was adjourned in Hilary Term to Easter Term, the adjournment would be duly entered, and room would be conjecturally left below for all that might happen in relation to the same case in Easter or subsequent Terms. In the King's Roll, however, it seems to have been the practice to enter the proceedings of each particular Term in the roll of that Term, and with a reference to the principal roll of any earlier Term in which the hearing commenced. Thus the principal roll of the Term in which the hearing commenced, when all the entries are properly made, ought to show the whole proceedings down to the judgment, even though the judgment may have been given terms or years afterwards. The King's Roll, however, does not show any proceedings later than the particular Term to which it belongs. It leaves a case in one Term and takes it up again in another, but without any repetition in detail of what has gone before.

There are three possible interpretations of the co-existence of the *Placita de Banco*, or Roll of the Justices

Their characteristics as distinguished from the Rolls of the Justices.

They appear to have been

drawn up
independ-
ently.

and of the King's Roll. The King's Roll may have served as a draft of portions of the Roll of the Justices, or it may be a transcript of certain portions of that roll, or it may have been made independently. It is improbable that the King's Roll is a mere draft of portions of the Roll of the Justices, because, if so, there would presumably have been some other draft of the cases omitted from the King's Roll, and because the included cases are in different order. On the other hand, if it is a transcript, it must be a transcript made before the subsequent proceedings were entered upon the roll of *Placita de Banco* of any Term. If in Hilary Term a day was given to the parties in the next Easter Term, and then another in the following Trinity Term, the mention of the first adjournment would appear in the King's Roll of Hilary Term, and the mention of the second in Easter Term, whereas both would appear in the *Placita de Banco*, or Roll of the Justices, of Hilary Term. If, therefore, the entry in the King's Roll of Easter Term were a transcript it would be a transcript severed from the context.

On the whole therefore, it seems most reasonable to suppose that the King's Roll was drawn up independently, and to some extent, perhaps, as a check upon the Roll of the Justices. If it was known that one of the rolls was transcribed from the other it is hardly conceivable that one would have been set up as an authority against the other, and that when it was so set up, the fact would not have been mentioned. The King's Clerk, or Clerk of the Crown in the Common Bench, may have kept the roll for some reason connected with the protection of the rights of the Crown, but, as we have seen, it was not considered of sufficient authority to override the Roll of the Justices—even as being an original draft—and it was not always amended when an amendment was made in the principal roll. It was, however, probably found very useful from its references to the earlier *Placita de Banco*, just as it has recently

been found of value in tracing the record of a case which was reported two Terms later than its entry upon the Roll of the Justices.

Unfortunately the King's Rolls are not in their original condition. They have evidently been re-sewn in comparatively modern times, and numbers have been written upon the skins in a comparatively modern hand. The skins have no contemporary numbering. All of them have the word "Rex" in the right hand corner at the top; and many of them have the date, e.g., "*De Quindena Paschæ*," "*De tribus Septimanis Paschæ*," "*De Mense Paschæ*," "*De quinque Septimanis Paschæ*," &c. They would of course have been kept in proper order by the Clerks of the Court, so that when a cause had been adjourned, e.g., to the Quinzaine of Easter, an entry might be made under that date of any further adjournment or proceeding. At present some of the rolls, at any rate, are in a state of great confusion, the skins dated the Quinzaine of Easter, in the 16th year of the reign of Edward III., being intermixed with those of later date, and one skin, bearing the date, "*De tribus Septimanis Paschæ*," being sewn into the roll the wrong way up. Some of the skins, there can be little doubt, have disappeared altogether, and it must, therefore, always be uncertain how much of the matter which is found upon the Roll of the Justices was inserted in the King's Roll. We can, however, be sure that the King's Rolls of the Common Bench once constituted an unbroken series of records of some length and importance.

Their
present
condition.

One of the cases in this volume¹ is of importance, not so much on account of the points which were decided, as because it illustrates the earlier history of the Court of Common Pleas, and of the Exchequer. In order, how-

Case illustrating the growth of the Common Bench and Exchequer.

¹ No. 81 of Michaelmas Term.

ever, to show wherein its value consists, a few words of introduction appear to be necessary.

The King's Court sitting in the Treasury before the word "Exchequer" was used.

In the reign of Henry I. the Abbot of Abingdon is said to have proved the injustice of a claim put forward by his adversaries respecting the manor of Lewknor, "in Winchester Castle, before Roger, Bishop of Salisbury, Robert, Bishop of Lincoln, Richard, Bishop of London, and many of the King's barons." The decision was given "by judgment of the King's Justices." Because, however, the King was then in Normandy, Queen Matilda, who had been present, recorded and confirmed the judgment by a writ in the following form: "Know ye that Faritius, Abbot of Abingdon, in the Court of my Lord and of myself, at Winchester, in the Treasury, before [the Bishops above-mentioned, and twelve other persons], and by the Book of the Treasury, proved" certain facts in relation to the manor of Lewknor.¹ We thus find the *Curia Regis*, or King's Court, sitting in the Treasury to determine causes between subject and subject, and its judges described as the King's Justices. As yet there is no mention of the Exchequer, and the greatest of all the documents subsequently known as those of the Exchequer, Domesday Book, is described as the Book of the Treasury.

Revenue cases before the Chief and other Justices at the Exchequer.

About half a century later, in the reign of Henry II., a dispute arose, on the death of Abbot Roger, between the House of Abingdon and the Guardian of the Temporalities who had custody of their lands, on the King's behalf, during the vacancy of the Abbey. There are two accounts of the proceedings. They agree as to the fact that the matter came before Ranulf de Glanvill, the Chief Justiciary, but details as to the place of sitting and constitution of the Court, which appear in one of the accounts, are omitted from the other. In the longer, and apparently the better of the two, it is stated that the parties (the Abbey being represented by the

¹ *Chronicon Monasterii de Abingdon* (Rolls Series), Vol. II., pp. 115, 116.

Prior and some monks) appeared at the Exchequer at Westminster before Glanvill in his capacity of Chief Justiciary, other Justices (not styled barons) being present and assenting to his judgment.¹

In this case the matter was one affecting the royal revenue, and would in later times have been brought before the Treasurer and Barons of the Exchequer, or before the Barons alone. As we have seen, it was, like a cause not affecting the crown revenue, brought before "Justices."

These proceedings appear to have some bearing upon the origin and early history of the Exchequer, the relation of which to the *Curia Regis* and to the Treasury has hitherto remained somewhat obscure. It has in many works, including Madox's *History of the Exchequer*, been assumed that the English Exchequer is in fact, if not in name, as old as the reign of the Conqueror. Madox has even gone so far as to include the earliest Chief Justiciaries from the time of the Conquest among the Barons of the Exchequer,² though he was not aware of any contemporary evidence that the word "Exchequer" was in use at the period.

The word "Exchequer" apparently not used before the year 1118.

The earliest known mention of the Exchequer in England occurs in the reign of Henry I., who confirmed to the Priory of the Holy Trinity in London a grant made by his first wife Matilda. He announced this in a writ directed to Roger, Bishop of Salisbury, and the Barons of the Exchequer. The document is not dated, but was probably executed soon after Matilda's death in 1118.³ Henry I. also directed another writ to Richard, Bishop of London (who died in 1128) commanding him

¹ Compare 2 *Chronicon Monasterii de Abingdon* (Rolls Series), p. 237 and pp. 243, 244, with pp. 297-299.

² Madox, *History of the Exchequer*, Chap. xxv.

³ It is cited from the *Carta Antiqua*, N.n. 16, both by Madox,

Exchequer, Chap. ix., Sec. 2, and by Stapleton, *Magni Rotuli Scaccarii Normannie*, Vol. I., p. xix. Stapleton assigns the document to some period during Matilda's life, but of this there is no sufficient evidence.

to do full right to the Abbot of Westminster in respect of certain men who broke a church of the Abbot's in the night time. It concluded, "Unless you so do, let my "Barons of the Exchequer cause to be so done, so that I "may hear no clamour for want of right."¹ As the word Exchequer does not occur in relation to the case heard in the presence of Queen Matilda in the Treasury, it might almost seem that the use of the term grew up between that time and the year 1128.

The *Dialogus de Scaccario*.

The first written account of the origin and practice of the English Exchequer has come down to us in the guise of a work of fiction. It begins just like a modern novel with local colour: "While I was sitting at the window "of the watch-tower, which is next the River Thames, "there was heard the voice of a man speaking to me "with vehemence and saying: 'Hast thou not read, "'Master, that there is no use in knowledge or in treasure which is hidden away?'" The Master admits it, and then the pupil asks for information. A long conversation follows, the pupil asking questions, the Master answering them. The outcome is a treatise known as the *Dialogus de Scaccario*.

This work purports to have been composed in the twenty-fourth year of the reign of Henry II., but no contemporary manuscript of it is known to be in existence. The earliest of the official MSS.—that which appears in the existing Red Book of the Exchequer—has been assigned to the end of the reign of King John or the beginning of the reign of Henry III. The next earliest—that which appears in the Black Book of the Exchequer—has been assigned to the reign of Edward I. In the answer to the very first question we are told that the Exchequer was not always known by that name; "that which at the present day is spoken of as 'At

¹ This also has been cited both by Madox, Chap. vi., Sec. 2, and by Stapleton, Vol. I., p. xx. Dr. F. Liebermann has referred to both

authorities in his *Einleitung in den Dialogus de Scaccario*, p. 109, but has not traced any earlier mention of the English Exchequer.

" the Exchequer ' was formerly spoken of as ' At the Tallies.' "

With regard to the origin of the Exchequer and its date, the Master is very careful not to commit himself. " It is said," he remarks, " to have begun with the Conquest of the Realm by King William, its ground-work being taken from the Exchequer beyond the sea. The two, however, differ in very many, and indeed in most particulars. Others believe the practice of the Exchequer to have been in existence under the English Kings." He sums up thus: " At whatever time its practice began, there is no doubt that it is supported by the authority of the Magnates, so that no one may infringe the ordinances of the Exchequer or rashly resist them."

It leaves the origin of the Exchequer in doubt.

The Exchequer, adds the author of the treatise, " has this in common with the Court of the Lord the King, in which he determines rights in his own person, that it is not lawful for anyone to contradict what is there recorded or a decision therein pronounced . . . for there sits the King's Chief Justice, the first person in the realm after the King, and certain magnates of the realm, who with more intimate acquaintance (*familiarius*) aid in the King's secret councils." ¹

The constitution of the Court of Exchequer indistinguishable from that of the *Capitalis Curia Regis*.

Now this description would apply just as well to the *Capitalis Curia Regis* of Glanvill's time—of the time of Henry II.—as to the Exchequer. The King did not even then always sit in person, but more commonly the Chief Justice sat in his place, with " aliis fidelibus et familiaribus domini Regis." ²

In Normandy, at one period at any rate, the Exchequer was regarded as " an assembly of High Justices to whom it belonged to amend that which bailiffs and other minor justices had done ill or wrongly judged, to do right to every one without

The English and Norman Exchequers.

¹ *Dial. de Scacc.*, Lib. I., c. 4. | ² *Glanv.*, Lib. VIII., c. 3.

"delay as from the mouth of the Sovereign."¹ It thus resembled to some extent the *Capitalis Curia Regis* of Glanvill's time, being a Supreme Court, of which the jurisdiction was not by any means restricted to matters affecting the Crown revenue. The English Court of Exchequer, as soon as it came to be a Court with special judges of its own, the Treasurer and Barons, had a far more limited jurisdiction, and could never deal with ordinary causes between subject and subject, except when there was a fiction that one of the parties was a debtor to the Crown, or when one of them had privilege as officer of the Court.

Profert of a fine levied in the reign of Henry II. and recorded in or at the Exchequer.

In the action of Annuity which appears in this volume as No. 81 of Michaelmas Term, both the report and the record carry us back to proceedings of the time of Henry II. *Profert* was made of a fine levied in his reign. According to the report it was levied (*fruit leve*) in the Court of the Bishop of London in the presence of the King's Treasurer, and was afterwards recorded in the Exchequer before the King's Justices, together with the fact that the Treasurer witnessed the grant. Glanvill, who mentions the Exchequer in the body of his treatise only as a place of account,² gives the form of levying a fine made in an inferior court, but afterwards "recordata et irrotulata in curia domini Regis West-monasterii,"³ before the Bishop of Ely, the Bishop of Norwich, and R. de Glanvill, the King's Justice, and others of the King's lieges. It thus appears that Glanvill did not recognise the Exchequer as a Court for the recording and enrolling of fines as distinguished from the *Capitalis Curia Regis*.

The same fine described in 16 Edward III. as levied

It therefore becomes necessary to weigh very carefully the words of the report "recorded in the Exchequer before the King's Justices," and to compare them with the corresponding words of the record, "partem

¹ *Le grand coustumier du pays et duche de Normandie* (1539 ed.), Cap. lvi., fo. 77.

² Lib. VII., c. 10.

³ Glanv. Lib. VIII. c. 3.

"cujusdam finis dudum levati in Curia Domini Henrici Regis Secundi coram Justiciariis suis hic." There is only one possible interpretation of "*hic*" which is consistent with the ordinary use of that word in the rolls of the period, viz., in the Court of Common Pleas, in which the action was being tried. In the fine itself, however, as recited, the words are, as applied to the "*concordia*," recorded data et præsentis scripto confirmata in Curia Domini Regis apud Westmonasterium coram Ricardo Wintoniensi, et G. Eliensi, et J. Norwicensi Episcopis, et Ricardo Domini Regis Thesaurario, et Godefrido de Luci, et Rogero filio Reinfridi, et Ranulfo de Geddinges, et aliis Domini Regis Justiciariis, qui tunc affuerunt ad Scaccarium."

"*hic*" (in the Common Bench).

The words used in 29 Henry II. are thus in agreement with the report, except in the fact that in the report we find the expression "in the Exchequer," and in the fine the expression "at the Exchequer." Hence arises the question whether either or both of these expressions can be reconciled with the "*hic*" of the record, meaning the Common Bench. The fine is at the beginning to all intents and purposes in the same form¹ as that which prevailed in the Court of Common Pleas until fines were abolished in the reign of William IV.: "This is the final agreement made in the Court of the Lord the King at Westminster before A., B., C., and D., Justices." The Common Bench was always *Curia Regis*, though the Court of the Lord the King before his Justices, as distinguished from the Court before the King himself or King's Bench. The fine has, therefore, all the appearance of one levied in the Common Bench, except that the words "qui tunc affuerunt ad Scaccarium" are added after the word "Justiciariis."

It is in the same form as later fines levied in the Common Bench.

The fine must at any rate have been confirmed and recorded in one of two Courts—either in that Court which was represented in later times by the Court of Common Pleas, or in a distinct Court known as the *Curia Regis ad Scaccarium*, the existence of which has

Irregular use of the words "Justices," "Barons," and "Exchequer"

¹ For some early variations in this form, see Mr. Round's paper in the *English Historical Review*, pp. 293, et seq.

in relation
to early
fines.

been maintained by Madox.¹ If there really was such a Court as the latter, apart from the Exchequer as a Court for dealing with the King's revenue, and if the fine was recorded in it, there is in the present case absolutely nothing to distinguish it from the *Curia Regis* without the addition of "*ad Scaccarium*." In the fines purporting to be levied simply in the *Curia Regis* in the reign of Henry II. and down to the tenth year of the reign of John, it is not unusual to find immediately after the word "*Justiciariis*," or when that word is omitted after the names of certain persons mentioned, the words "*et aliis Baronibus et fidelibus*," or "*et aliis Baronibus et Justiciariis*," or "*et aliis fidelibus Domini Regis tunc ibi præsentibus*." The last phrase was perpetuated—as long as fines continued to be levied—in the English form: "and other faithful subjects of the Lord the King then there present." The Barons, however, disappear from the accepted formula about the middle of the reign of King John.² Before that time fines might be levied before Justices either at the Exchequer, or without any mention of the Exchequer, or before Barons not further described, or before Barons of the Exchequer.³ It does not indeed appear that there was during this period any clear distinction between Justices and Barons sitting at the Exchequer for purposes not connected with the collection or administration of the Royal revenue. The very same persons who are described as Justices in the fine produced in 16 Edward III. are described as Barons in another fine of precisely the same date (29 Henry II.) at the Exchequer, viz.—the Bishops of Winchester, Ely, and Norwich, Richard the Treasurer, Geoffrey de Luci, Roger son of Reinfrey, and Ranulf de Geddinges.⁴

¹ *History of the Exchequer*, Chap. iii.

² See Dugdale, *Origines Juridicales*, 92, and Hunter, *Fines sive Pedes Finium*, Vol. I., pp. xxxv.—xxxvi.

³ A fine levied, *coram Baronibus*

de Scaccario, is mentioned in the Great Roll of the Exchequer, 1 John, London and Middlesex.

⁴ Cited from the Rochester Register, by Madox, *History of the Exchequer*, Chap. iii.

Substitute "Treasury" for "Exchequer," and this is precisely what we find in the early part of the reign of Henry I., before the word Exchequer had come into common use. The Lewknor case was heard in the Treasury before certain persons named "and many of the King's Barons," and yet judgment was given by the King's Justices.

Moreover, when fines were levied at Westminster, about the same time, without any mention of the Exchequer at all, we find the same persons sitting in Court, that is to say, the same Bishops of Winchester and Ely, Richard the Treasurer, Godfrey de Luci, Roger son of Reinfrey, and Ranulf de Geddinges, with "other Barons and Justices of the Lord the King."¹

Thus, in the early days of levying fines, the Court before the King's Justices at Westminster (the style of the Court of Common Pleas) is indistinguishable, so far as the persons composing it are concerned, from the Court before the King's Barons, whether described as sitting at the Exchequer or not. As in the first two or three reigns after the Conquest the functions of Treasurer were commonly exercised by the chief Justiciary, so, when the Exchequer begins for a time to absorb the Treasury, the functions of its Barons are executed by the Justices of the *Capitalis Curia Regis*. Except in so far as revenue matters were concerned, it must have been extremely difficult to separate the two jurisdictions exercised by the same persons. The process of separation, indeed, could hardly have commenced at this period, and so the Court of Common Pleas would seem to have been justified in regarding a fine levied in due form at Westminster as being levied in the same Court, though the Justices were Barons as well, and though the place of sitting may have been that in which Exchequer matters were also transacted.

Jurisdiction of Justices and Barons identical.

¹ Fine, "in *Curia Domini Regis apud Westmonasterium*," of a date earlier than the 29th year of the reign of Henry II., printed in Hunter's *Fines*, Vol. I., p. xxij.

"Ad Scaccarium" in the title of Glanvill.

It may, perhaps, be added that some strength is given to these conclusions by a comparison of the title of Glanvill's treatise with the substance of the work. A distinction is drawn throughout between the *Capitalis Curia Regis* and the *Curia Regis* in which the Justices in Eyre sat with a delegated authority. At the end of the title it is stated in all the printed editions, "et illas solum leges continet et consuetudines secundum quas placitatur in Curia Regis ad Scaccarium, et coram Justiciis ubicunque fuerint."¹ Whoever the person may have been who wrote those words, he must clearly have regarded the Exchequer as the ordinary place of sitting of the *Capitalis Curia Regis*, as distinguished from the *Curia Regis* of the Justices in Eyre.

Separation of the Exchequer jurisdiction from that of the *Capitalis Curia Regis* very gradual.

The separation of the jurisdiction of the Court of Exchequer from that of the *Capitalis Curia Regis* was so very gradual, that it had not been completed when Henry III. ascended the throne, though the principles on which it was effected were then beginning to be recognised. There is no series of Exchequer records of earlier date than this, except the annual Great Rolls of Accounts.² When, however, the Court of Exchequer has its own rolls of judicial proceedings, they soon show that limits are being set to the power which it would arrogate to itself, and which is no longer co-extensive

¹ I have not ascertained what is the MS. authority for this ending of the title. It is omitted from Reg. 14, C. 2, and from Cotton. Claud., D. 2; and the whole title is omitted from Harl. 1119. The point is one which concerns rather the learned editor of Glanvill than the editor of the Year Books. It is, however, hardly possible that the words could have been added after the separate jurisdictions of the Courts had become fully recognised.

² The Remembrance Rolls, both of the King's Remembrancer and of the Lord Treasurer's Remembrancer, begin with the first year of Henry III.; the Plea Rolls of the Exchequer of Pleas not until the year 20 Henry III. There is, however, reason to believe that some of the Plea Rolls have been lost, and that others are incomplete. See the Report of Mr. (afterwards Sir Henry) Cole on this subject in the First Report of the Deputy Keeper of the Records, p. 14.

with the power of the Supreme Court that once sat in the Treasury. But for a long time afterwards some common pleas continued to find their way into the Exchequer. The later principle that no original Writ issuing from the Chancery could be returnable in the Court of Exchequer was not yet fully recognised. In the fifty-sixth year of the reign of Henry III. a writ was sent to the Treasurer and Barons of the Exchequer directing them to send all pleas affecting persons who were not officers of the Exchequer to the Justices of the Common Bench, together with the original Writs and records. The reason assigned was not that the Court of Exchequer had no jurisdiction, but that these pleas commenced by original Writ occupied the time of the Court, so that it could not properly attend to the King's business in relation to the revenue. In the end, of course, the jurisdiction of the Common Law side of the Exchequer was very clearly marked off from that of the King's Bench and Court of Common Pleas, only to recover what it had lost through the fiction of the Writ of *Quominus*. The details of these changes would, however, be out of place here. Enough has, perhaps, been said to show why a fine levied in the reign of Henry II. at the Exchequer was held in the reign of Edward III. to have been levied in the Court of Common Pleas.

I have once again the pleasure of offering my best thanks to the Benchers of the Honourable Societies of the Inner Temple and Lincoln's Inn for the loan of their valuable MSS.

The Temple MS. contains no reports of later date than the year 16 Edward III., but it has been of the greatest service in establishing the text of the reports through the period from the eleventh to the sixteenth year of the reign, and in restoring it to the Inner Temple Library I have felt that I have parted from a faithful friend, who has often given me help when none was to be found elsewhere.

There is, however, no lack of excellent MS. material for the reports of the four succeeding years, of which the Lords Commissioners of Her Majesty's Treasury have now sanctioned the publication. Reports of the seventeenth and eighteenth years have been printed, though not translated, in the old editions of the Year Book, but those of the nineteenth and twentieth years have not even been printed. The publication of the seventeenth and eighteenth years in the Rolls Series will, it is hoped, put fairly to the test the expediency of re-editing according to modern methods those Year Books which have already been printed. The publication of the nineteenth and twentieth years will fill in the last gap in the printed Year Books before the thirty-first year of Edward III.; and there will then be a complete modern edition from the eleventh year to the twentieth inclusive.

L. OWEN PIKE.

15 *December*, 1899.

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the parties are represented merely by letters in the reports. A full index of all persons and places mentioned in the volume is printed at p. 627.

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THE CHANCELLOR, JUSTICES OF THE TWO
BENCHES, TREASURER AND BARONS OF
THE EXCHEQUER DURING THE PERIOD OF
THE REPORTS.

Chancellor.

Sir Robert Parning.¹

Justices of the Court of King's Bench.

Sir William Soot, Chief Justice.

Sir Robert de Scardeburgh.

Sir Roger de Baukwell.

Sir William Basset.

Justices of the Court of Common Pleas.²

Sir John de Stonore.³

Sir William de Shereshulle, or Sharshulle.⁴

Sir Roger Hillary.⁵

Sir John de Shardelowe.⁶

Sir Richard de Kelleshulle or Kelshulle.⁷

Treasurer.

William de Cusance.

¹ As to this name, *see* Y. B. 16 Edw. III., Part I., p. xcix., note 1, and the present volume, p. xvi., note 1, and p. 513, notes 1 and 2.

² As ascertained from the Feet of Fines of the two Terms. William de Thorpe and John de Stouford were also appointed Justices by Letters Patent (*Rot. Lit. Pat.*, 16 Edw. III., Part I., m. 13), but did not act in that capacity during the year. Not only do their names not appear with those of the other Judges in the Feet of Fines, but they are seen to be acting as counsel in the reports. Their appointment, which was on the 13th of April, seems to have been suspended by those of Stonore, Sharshulle, and Sharshulle in the following month.

³ Re-appointed on the 9th of May. *Rot. Lit. Pat.*, 16 Edw. III., Part I., m. 8, and *Placita de Banco*, Trin., 16 Edw. III., R^o. 1.

⁴ Re-appointed on the 10th of May, *Rot. Lit. Pat.*, 16 Edw. III., Part I., m. 8.

⁵ Re-appointed on the 4th of June, having acted as Chief Justice in Easter Term. *Rot. Lit. Pat.*, 16 Edw. III., Part I., m. 42, and *Placita de Banco*, Trin., 16 Edw. III., R^o. 28d.

⁶ Re-appointed on the 16th of May. *Rot. Lit. Pat.*, 16 Edw. III., Part I., m. 2, and *Placita de Banco*, Trin., 16 Edw. III., R^o. 59.

⁷ A Justice in the preceding Easter Term.

Barons of the Exchequer.

Sir Robert de Sadington, Chief Baron.
Sir Thomas de Blaston.
Sir William de Stowe.
Sir William de Broclesby.
Sir Gervase de Wilford.

NAMES OF THE "NARRATOIRES," COUNTORS, OR
COUNSEL.¹

Roger de Blaykeston.
Adam Bret.
Hamo Derworthy.
John de Gaynesford.
Henry de la Grene.
John de Moubray.
William de Notton.
Richard de la Pole.
John de Pulteney or Pultenay.
Peter de Richemund.
John de la Rokel, or Rokele, or Rokelle.
Thomas de Seton, or Seeton.
John de Stouford.
Robert de Thorpe.
William de Thorpe.

¹ Mentioned in the *Placitu de Banco* as receiving chirographs of fines.

CORRECTIONS.

Page 58, line 21, for "*Johan*" read "*John*."

- „ 81, note 13, add the words "but the conclusion appears as a *residuum* in another part of the MS."
- „ 83, line 8. The xlii. of the MS. ought apparently to have been xvi. See p. 485, note 1.
- „ 290, line 15, for "*Blaik*" read "*Blaykeston*."
- „ 293, note 1, line 23, for "*Court*" read "*the Court*."
- „ 375, side-note, for "*02*" read "*102*."
- „ 384, line 14 and line 19, for "*Pult*" read "*Pulteney*."
- „ 386, line 6, for "*over*" read "*ever*."
- „ 438, note 1, for "*referensence*" read "*reference*."
- „ 447, side-note, for "*92*" read "*98*."
- „ 538, line 10, for "*received*" read "*admitted*."
- „ 594, line 25, for "*suprædicto*" read "*supradicto*."

In previous volumes (translation) for "*Blaik*" and "*Gayneford*" (names of Counsel) read respectively "*Blaykeston*" and "*Gaynesford*."

TRINITY TERM
IN THE
SIXTEENTH YEAR OF THE REIGN OF
KING EDWARD THE THIRD
AFTER THE CONQUEST.

TRINITY TERM IN THE SIXTEENTH YEAR OF
THE REIGN OF KING EDWARD THE THIRD
AFTER THE CONQUEST, BEFORE STONORE,
SHARSHULLE, SHARDELOWE (RE-INSTATED)
AND HILLARY, AND KELSHULLE, &c.

Nos. 1, 2.

A.D. 1342. (1.) § Note that a feme covert was convicted of a
Novel disseisin. disseisin effected with force and arms, and it was
A feme commanded that she should be taken.
covert was
taken.

Note in a (2.) § Note that KELSHULLE asked the opinion of
case in STONORE and SHARDELOWE—in respect of an assise in
which joint tenancy is alleged in *pais*, in which the husband alleged joint tenancy with
Assise. his wife by a specialty, and the wife, being warned, came
and maintained the exception, and the assise passed on
that point against the husband and his wife—whether
the wife should suffer the punishment provided by
Statute. And they said No, because the Statute *De con-
junctim feoffatis*¹ assigns the punishment to those who
put forward the exception, and in this case it was only
the husband. And so understand the Statute.

¹ 34 Edw. I. Stat. 1.

DE TERMINO TRINITATIS¹ ANNO REGNI REGIS
EDWARDI TERTII A CONQUESTU SEXTO
DECIMO,² CORAM STONORE, SCHARSHULLE,
SCHARDELOWE RECONCILIATIS, ET HIL-
LARY,³ ET KELSHULLE, &c.

Nos. 1, 2.

(1.)⁴ § *Nota* qe femme coverte fuit atteynte de disseisine faite a force et armes, et fuit comande destre prise.

A.D. 1342.
Novele
Disseisine.
Une femme
coverte
fut prise.⁵
[16 Li.
Ass., 7.]

(2.)⁴ § *Nota* qe KELSHULLE demanda avis de STONORE et SCHARD.⁷ dune assise en pais, ou le baroun alleggea jointenaunce⁸ ove sa femme par especialte, et la femme garny vynt et meyntynt lexeption,⁹ et lassise passa sur le point countre le baroun et sa femme, si¹⁰ la femme averoit la penance par statut, qe disoient qe non, qar le statut *De conjunctim feoffatis* doune la penance a ceux qe mettent avant lexeption,¹¹ et ceo fuit seulement le baroun. *Et sic intellige Statutum.*

Nota en
Assise, ou
jointenaunce est
allege.⁶
[16 Li.
Ass, 8;
Fitz.
Peyn, 6.]

¹ The reports of this Term are from the Temple MS., the Lincoln's Inn MS., the Harleian MS. No. 741, and the "Additional" MSS. in the British Museum, numbered respectively 16,560 and 25,184.

² In T. and 25,184 the heading ends here.

³ The words SCHARDELOWE RECONCILIATIS, ET HILLARY are omitted from L.

⁴ From T., 16,560, 25,184, and Harl.

⁵ The marginal note is from 25,184 alone. In T. the side note is *Nota*, and in Harl., *De emprisonement*.

⁶ The marginal note is from Harl. There are slight differences in the other MSS.

⁷ SCHARD. is from Harl. alone; the other MSS. SCH. or SCHAR.

⁸ 25,184, jointenaunce.

⁹ Harl., la essone.

¹⁰ T., et.

¹¹ Harl., lessone.

No. 3.

A.D. 1342. (3.) § Account. The defendant came in custody, against whom *Gaynesford*, for the plaintiff in the Debt. Account, counted on a writ of Debt.—*Pole*. You have And note that, if the defendant have a day by roll, even though the writ be not served, he shall answer. *Secus* if there is no day by roll, as when the first summons is not served. counted without a party, for to this writ he has not been called; and besides, he has not a day on this writ of Debt, for a *Pone per vadium*, which ought to be returnable now, is not served or returned.—*Gaynesford*. You have a day by the roll.—*Pole*. Not so; if he could be said to have a day by the roll, it would be by the *Pone per vadium*, for even though the roll make mention that a particular writ has issued to cause the party to come, it is not thereby proved that the parties have a day by the roll, but rather the reverse.—*SHARSHULLE*. You have come at your day, and therefore that suffices; and it has been seen a score of times in such a case that the party should answer, or that otherwise judgment would have passed.—*Pole*. Never, certainly, when the writ was not served.

Account. § John son of Thomas de Boseworthe brought his writ against J. Chaynel returnable at the Octaves of Trinity, and also a writ of Debt returnable on the same day. On the writ of Account J. came by the Exigent. The writ of Debt had reached the process of *Pone per vadium*; and because on the writ of Account J. came by the Exigent he was ordered into custody in the Fleet.—*Gaynesford* counted against him

No. 3.

(3.)¹ § Accompte. Le defendant vynt en garde, vers A.D. 1342. qⁱ Gayn., pur le pleintif en lacompte² counta en bref Dette.³ de dette.—*Pole*. Vous avez counte saunz partie, qar *Et nota*, a ceo bref il nest pas demande; et, ovesqe ceo, a ceo sil eid jour par roule, bref de dette il nad pas jour, qar un *Pone per vadium*, lement qe le bref ne soit mye retourne.—*Gayn*. Vous avez jour par roule.—*Pole*. Nanyl; sil duist aver jour par roule,⁴ ceo serroit par respoun-
le *Pone per vadium*, qar tut face roule mencion qe dra. *Cecus* tiel bref soit issu de faire venir la partie, par taunt est sil nest mye jour par roule, com a la primer somons nient servi.
nest pas prove qe par roule parties ount jour, mes plus toust le revers.—*SCHAR*. Vous estes venuz⁵ a vostre jour, par quei ceo suffit; et xx.⁶ foitz ad este vieu en tiel cas qe partie respoundereit, ou jugement ust autrement passe countre luy.—*Pole*. Certes unqes ou le bref ne fuit pas servy.

§⁷ Johan fitz Thomas de Boseworthe porta son Accompte. bref vers J. Chaynel⁸ retournable a lez utavz de la Trinite, et auxint bref de dette retournable a mesme jour. En le bref dacompte J. vynt par lexicgende. Le bref de [dette] fuit *Pone per vadium*; et pur ceo qe en le bref dacompte J. vynt par lexicgende il fut comaunde en garde de Fleta.—*Gayn*. compta vers luy,

¹ From T., 16,560, 25,184, and Harl. (until otherwise stated), but corrected by the record, *Placitu de Banco*, Trinity, 16 Edward III., R^o. 77. It there appears that the actions were brought by John de Boseworth, of London, tailor, against John son of John Chaynel. The action of Account was in respect of two several sums of 60s. alleged to have been received by the defendant, *ad mercandizandum* for the plaintiff's profit, the action of Debt in respect of a sum of 60s. for a hauberk bought from the plain-

tiff, the defendant having given a bond for the amount.

² T. and 16,560, Accounte. The rest of the side note is from 25,184 alone.

³ T. and 25,184, la count. The words en lacompte are omitted from Harl.

⁴ The words par roule are from T. alone.

⁵ venuz is omitted from Harl.

⁶ 16,560 meint.

⁷ This report of the case is from L. alone.

⁸ MS., Cleyme.

No. 3.

A.D. 1342. on the writ of Account, that he was receiver of the plaintiff's money.—*Pole* defended, and said that he would imparl.—And immediately before J. went from the bar, *Gaynesford* began to count against him on the writ of Debt.—J. instantly withdrew from the bar.—*Gaynesford* did not therefore leave off counting his count, and he prayed the record of the Court that J. was at the bar when he began to count against him; and he prayed judgment, &c.—*KELSHULLE*. We will certainly record that he was at the bar when you began your count.—*Pole*. A man can be at the bar, and lose his land or his issues by default, if he will; wherefore the Court will not record the presence of the party in such a case, unless he be called on the same writ, and answer. Now, Sir, J. was not called on this writ of Debt; wherefore it seems that as to this writ you cannot record his presence.—*SHARSHULLE*. When you and I were apprentices, and Sir W. de Herle and Sir J. Stonore were serjeants, you saw that Sir J. came to the bar to pass a fine for a knight on a writ of Covenant, and Sir W. was for another person who had a writ of Debt against the same knight. When he saw the knight at the bar, Herle instantly counted against him on the writ of Debt, and the knight, by Sir J., held to it that he was only called on a writ of Covenant, and on no other writ; and, at least, because he then had a day in Court on that writ of Debt, if he had not answered, he would have been convicted of the debt for contempt; wherefore, &c.—*Pole*. Sir, in that case it was no wonder, because he had a day by the Grand Distress, and the writ was served against him; but in our case here J. has not a day either by writ or by roll, for to this writ of *Pone per vadium*, by which he should have had a day in Court, the Sheriff has returned that he has nothing whereby he can be attached; wherefore in such case the Court has no warrant to call him.—*Gaynesford*.

No. 3.

en bref dacompte qil fut resseivour des deners le pleintif. A.D. 1342.
 —*Pole* defendi, et dit qil voleit enparler ; et immediate
 avant ceo qe J. ala de la barre, *Gayn.* comencea counter
 vers luy en le bref de dette.—J. se retret tantost de
 la barre.—*Gayn.* ne lessa mye pur ceo qil nacounta
 avant son counte, et pria record de la Court qil fut
 a la barre quant il comencea conter vers luy ; et demanda
 jugement, &c.—*KELS.* Nous recorderoms bien qil fut
 al barre quant vous commensastes vostre counte.—
Pole. Un homme put estre a la barre, et perdre sa
 terre ou ses issuz par defaute, sil vodra ; par quei la
 Court ne recordera pas la presence de la partie en tiel
 cas, sil ne soit demande a mesme le bref, et respoigne.
 Ore, Sire, J. ne fut mye demande a cele bref de
 dette ; par quei il semble qe a cel bref vous ne poez
 sa presence recorder.—*SCHAR.* Quant vous et moy
 fumes aprentiz, et Sire W. de Herle et Sir J. Stonore
 furent serjeanz, vous veietz qe Sire J. vynt a la barre
 pur trere un pees pur un chivaler sour un bref de
 covenant, et Sire W. fut pur un aultre qavoit un bref
 de dette vers mesme le chivaler. Quant il vist le
 chivaler a la barre, il conta tantost devers luy en le
 bref de dette, et il obligea, par Sire J., qil fut taunsol-
 ment demande a un bref de covenant, et a nul autre
 bref ; et, ad maynnes, pur ceo qe adonques il avoit jour
 en Court a cel bref de dette, sil nust respoundu, ust
 este atteint de la dette *per contemptum* ; par quei, &c.
 —*Pole.* Sire, la ne fust il pas merveille, qar il avoit
 jour par la grant destresse, et le bref fut servi vers
 luy ; mes en nostre cas issi J. nad mye jour par bref
 ne par roulle, qar a cesty de *Pone per vadium*, par
 quel il dust aver eu jour en Court, le Vicounte ad
 retourne qil nad rien ou estre attache ; par quei la
 Court en tiel cas nad mye garrant a demander luy.

No. 4.

A.D. 1342. He is in custody in the Fleet, and when the Court is apprised that a man is in custody in the Fleet, it will not call him, but must make an order to cause him to come. And, on the other hand, whereas you say that John has not a day either by writ or by roll, it is not so; for he was summoned on the same writ of Debt, and by reason of his default the *Pone per vadium* was awarded against him, so he has a day by the roll; wherefore, &c.—And on the morrow *Pole* made *Profert* for him of an acquittance of all kinds of accounts and debts, &c.—And the plaintiff could not therefore deny that they had come to terms; wherefore he took nothing by his writ, &c.

Entry *sur*
disseisin
in respect
of a
bailiff's
office,
brought by
a Dean,
who re-
covered
by action
tried, and
yet en-
quiry was
had as to
collusion

(4.) § The Dean of Wells brought a writ of Entry on a disseisin, effected on his predecessor, of the office of bailiff of the Bedelary of the Hundred of Bempston.—The disseisin being traversed, the Inquest came now.—*W. Thorpe* wished to have challenged the array of the panel, for the King, because it was arrayed by the bailiff of the Dean himself, who is a party.—SHARSHULLE. This is not a *Quale jus*, but is an inquest on

No. 4.

—*Gayn.* Il est en garde de Flete, et quant la Court A.D. 1342.
est apris qe homme en garde de Flete, il le demandera
pas, mes covendreit agarder de luy faire venir. Et,
dautre [part], par la ou vous dites qe Johan nad mye
jour par bref [ne] par roule, il nest pas issint; qar il
fut somons [en] mesme le bref, et par sa defaute le
Pone per vadium agarde vers luy, issint ad il jour
par roule; par quei, &c.—Et lendemayn *Pole* mist
avant pur luy un aquittance de touz maneres dacomptes
et dettez, &c.—Et le pleintif ne put my pur ceo
[dedire] qils furent acordez; par quei il prist rien par
son bref, &c.¹

(4.)² § Le Dean de Welles⁴ porta bref dentre dune
disseisine fait a soun predecessour⁵ de la baillie de la
Bedelrie⁶ del Hundred de Bempston.⁷—La disseisine
traverse, lenquest vynt ora.—*W. Thorpe* voleit aver
challange larray du panel, pur le Roi, pur ceo qe ceo fuit
araie⁸ par le baillif⁹ le Dean mesme, qest partie.—
SCHAR. Ceo nest pas *Quale jus*, mes est enquest a
la disseisine dune baillie par un Dean, qe recoveri
par accion trie, et uncore fuit enquis de la collu-
sion.⁹

¹ According to the record the instrument of which *Profert* was made, and which is set out at length, was a release of all actions. This was confessed by the plaintiff, and judgment passed for the defendant. The obligation on which the action of Debt was brought was cancelled in Court.

² From T., 16,560, 25,184, and Harl. (until otherwise stated), but corrected by the record *Placita de Banco*, Easter, 15 Edw. III., R^o. 70, the reference to which was found among the Wells Cathedral MSS., *Lib. Rub.* fo 54 d. The action was brought by Walter de London, Dean of Wells, against Walter de Farndon and Matilda his wife,

touching "ballivam bedellarie
" Hundredi de Bempston cum per-
" tinentiis."

³ The words sur disseisine are omitted from Harl., and the words subsequent to disseisine are from 25,184 alone.

⁴ T., Baas; 16,560, Baath; 25,184, Bas; Harl., Bath.

⁵ Henry Husee, who, according to the roll, was disseised by Nicholas de Langelond.

⁶ 25,184, Budelrie.

⁷ T., 16,560, and Harl., de A., instead of del Hundred de Bempston.

⁸ 16,560, araye; 25,184, arraye; Harl., arrame.

⁹ 16,560, bailla.

No. 4.

A.D. 1342. the mise of the parties, where nothing can be lost to the King.—*W. Thorpe*. The office may be amortised through the verdict.—*SHARSHULLE*. It is not so; but if the office was amortised before, perhaps he will recover, and otherwise not.—And then the inquest passed for the Dean; and the Court enquired whether the office was the right of his deanery, and which of the Deans was seised since the time of the Statute.¹—*W. Thorpe*. This inquest is taken on the mise of the parties on a certain point; wherefore to enquire of the right which is not the mise between the parties, and for which an Attaint does not lie, is contrary to reason.—*SHARSHULLE*. Would not this be done in an assise?—*R. Thorpe*. An assise may be taken, without mise of the parties, by default.—*SHARSHULLE*. I tell you plainly that if it had been found that you had not right, the reverse of which is found, you would immediately have heard news of it.—*W. Thorpe*. One W. has brought a writ of Formedon of earlier date against the same tenant in respect of the same office, on which they have joined issue to the inquest, and this suit is brought by fraud and covin to make the other lose his writ; wherefore we pray that judgment may be respited.—Notwithstanding seisin was awarded.

Entry sur
disseisin.

§ The Dean of Wells brought his writ of Entry, on a disseisin effected on his predecessor, against one A. in respect of a bailiff's office. The disseisin being traversed, the Inquest now came ready to pass on their mise.—*W. Thorpe*. We tell you, for the King, that the person who is now demandant is Hundredor in fee of the Hundred of K., of which Hundred are these people who are put in the panel, and they are arrayed by his bailiff, and therefore, Sir, since his object is to recover land in mortmain by this suit, we do not think you will take this inquest by

¹ Of Mortmain, 7 Edw. 1., St. 2 (*De Religiosis*).

No. 4.

mise des parties, ou rien depiert ¹ au Roi.—*W. Thorpe*. A.D. 1342. Loffice ² est damortir par lenquest.—*SCHAR*. Noun est ; [Fitz. Challenge, 107; Col-lusion, 42.] mes sil fuit amorti devant, il recovers par cas, et autrement nynt.—Et puis lenqueste passa pur le Dean ; et Court enquist si ceo fuit le dreit de sa Denee, et qi des Deans puis le temps del estatut fuit seisi.³—*R. Thorpe*. Cest enqueste est pris a mise des parties sur certeyn point ; par quei denquere de dreit, qe nest pas mise entre ⁴ parties, et de quei atteynte ne gist pas, est coudre resoun.—*SCHAR*. Nel freit homme en assise ?—*R. Thorpe*. Assise pout estre pris, saunz mise des parties, par defaute.—*SCHAR*. Jeo vous die bien qe si trove ust este qe ⁵ vous navez pas dreit, come le revers est trove, vous usses oy noveles tantost.—*W. Thorpe*. Un W. ad porte bref deigne temps de fourme de doun ⁶ vers mesme le tenant de mesme loffice, ou ils sount ⁷ a lenqueste, et ceste suyte est fait par fraude et covine de faire lautre perdre soun bref ; par quei nous prioms qe le jugement soit respite.—*Non obstante* seisine fuit agarde.

§ Le ⁸ Dean de Welles porta son bref dentre, sour disseisine fait a son predecessour, vers un A. dun baillie. Entre sour Disseisine. A travers la disseisine, ore vynt lenquest prest a passer sour lour mise.—*W. Thorpe*. Nous vous dioms, pur le Roy, qe cesti qest ore demandant est Hundredour de fee del Hundred de K., de quel Hundred cestz gentez sont qe sont myse en panel et araiez par soun baillif, par quei, Sire, depus qil est par ceste suyte a recoverir terre a mort mayn, nentendoms mye qe par cel panel

¹ Harl., piert.

² T. and 25, 184, lissne.

³ According to the record "quisitum est a prefatis juratoribus quale jus predictus Walterus nunc Decanus habet in predicta balliva Bedellarie predictae, et quis predecessorum, &c., fuit inde

"seisitus ut de jure Decanatus sui predicti."

⁴ T., des.

⁵ T., et.

⁶ See below, No. 67.

⁷ 25, 184, il est, instead of ils sount.

⁸ This report of the case is from L. alone.

No. 4.

A.D. 1342. this panel so arrayed.—SHARSHULLE. This is a mise between party and party, and therefore it seems that, without challenge by a party, we cannot try the matter of which you speak.—*W. Thorpe*. Sir, although the issue be between party and party, this person who is demandant is a man of religion, and his object is to recover the tenements in mortmain; and therefore, even though you were to find by the inquest that his predecessor was disseised, still you would enquire (in lieu of *Quale jus* as to collusion) what right his predecessor had, and if it were found that his predecessor had no right, he would not recover. Therefore it seems that in this case also, as in a *Quale jus*, any one on behalf of the King, and any lord, mesne or immediate, ought to be admitted here to challenge the inquest.—*Gaynesford*. We are for the tenant, and we disavow that which he says; and besides, Sir, you will find that the array has been made by the Sheriff; wherefore, &c.—*W. Thorpe*. When any one is Hundredor in fee, &c., and a writ comes to the Sheriff to cause a jury to come from some certain place which is within the same Hundred, the Sheriff must send to the person who is Hundredor, and though the array be made by the person who is Hundredor, yet the Sheriff must in his return suppose that the array was made by himself; wherefore, &c.—*Pole*. The Court ought not to enquire as to the right in such a case, according to what is ordained by Statute, and that applies only to cases in which the tenements are to be recovered by default. Certainly since in this case the tenant has traversed the demandant's action, it seems that the Court has to enquire of nothing but that which is put in issue by the parties, &c.—SHARSHULLE. Before you were apprentice, on writs of this kind, even though the tenant traversed the demandant's action, yet when the demandant was a man of religion, enquiry was made of the demandant's right, in order to ascer-

No. 4.

issit araye voillez cest enquest prendre.—SCHAR. Cest A.D. 1342.
 un myse entre partie et partie, par quei il semble,
 sanz chalenge de partie, nous ne poms trier ceo qe
 vous parlez.—*W. Thorpe*. Sire, coment qe la mise
 soit entre partie et partie, cesti qest demandant est
 homme de religion, et est a recoverir lez tenementz
 en mort mayn; par quei, mesqe vous trovassez par
 lenquest qe son predecessour fut disseisi, unqore vous
 enqueres (en lieu de *Quale jus* par la collusion) quel
 dreit son predecessour avoit, et si trove fut qe son
 predecessour navoit nul dreit, il ne recovers pas; par-
 quei semble qe, auxi en ceo com en *Quale jus*, chescun
 homme pur le Roy, et chescun seigneur, mediat et
 immediate, cy deyvent estre ressuz de chalenger
 enquest.—*Gayn*. Nous sums pur le tenant, et desa-
 woooms ceo qil dit; et ovesqe ceo,¹ vous trovez,
 Sire, qe laraie est fait par le Vicounte; par quei,
 &c.—*W. Thorpe*. Quant un homme est Hundre-
 dour de fee, &c., et bref vynt a Vicounte de faire
 venir pays descun certeyn lieu quest dedeynz mesme
 la Hundred, il covient qe le Vicounte maunde a cely
 qest Hundredour, et coment qe larai soit fait par cely
 qest Hundredour, unqore covient qe le Vicounte en
 son retourne suppose laraie estre fait par luy mesme;
 par quei, &c.—*Pole*. La Court ne deit mye enquere
 de dreit en tiel cas, selon ceo qest ordine par estatut,
 et ceo nest mes en cas ou les tenements sount a
 recoverir par defaute. Certes depus qe en ceo cas le
 tenant ad traverse laccion le demandant, il semble qe
 la Cour nad rienz denquere mes ceo quest myse de
 partie, &c.—SCHAR. Avant ceo qe vous fuistez aprentiz,
 en tiels brefs, mesqe la tenant traversa laccion le
 demandant, la ou le demandant fut homme de religion,
 unqore, pur la collusion, homme enquist de dreit le

¹ MS., vous.

No. 5.

A.D. 1342. tain whether there was collusion; wherefore, &c.—And thereupon *Thorpe*, for the King, was admitted to make his challenges, as above.—And these were tried, and it was found that the people put in the panel were not of the Hundred of K.—And afterwards, for the King, *Thorpe* challenged the polls, because some of them had not sufficient lands.—And these challenges were tried, and the reverse of that which *Thorpe* had said was found.—Therefore the Inquest was sworn, and charged on the mise of the parties, and it was found that the demandant's predecessor was disseised as was supposed by his writ. And enquiry was had over as to his right, on which it was found that he and his predecessors before him, being Deans of Wells, had been seised of the same office of bailiff, from time whereof memory, &c., as the right of their Deanery; wherefore it was adjudged that the Dean should recover his seisin, &c.

Dower
demanded
by the
second
wife
against
issue in
tail.

(5.) § The tenant pleaded by *Blaykeston* that the land was given to his father, in respect of whose seisin the demandant now demands, and to his mother, and the heirs of their bodies, &c., and he is issue, begotten between them, in tail, and this lady who demands is his father's second wife; judgment whether she ought to have dower of such an estate.—*Gaynesford*. Seised in his demesne as of fee, so that he could endow us; ready, &c.—*Blaykeston*. I have acknowledged the seisin as of fee, and therefore there is no need to aver it.—*Gaynesford* was put to answer, and said:—seised in his demesne as of fee simple; ready, &c.—And the other side said the contrary.—*Quære*, if the husband purchased a release from the donor, so that he had both estates, whether the woman would have dower.—It seems by this averment that she would, when the estate in tail is not traversed.

No. 5.

demandant; par quei, &c.—Et sour ceo *Thorpe*, pur le A.D. 1342.
 Roy, fut resceu a dire ces chalenges, *ut supra*.—Et ces
 furent tries, et trove fuit qe lez gentz mys en panel ne
 furent del Hundred de K.—Et pus, pur le Roy, il
 chalengea lez testez, pur ceo qe ascuns navoient mye
 terres sufficeantz.—Et ces chalenges tries, et trove fuit
 le revers de soun dit.—Par quei lenquest fuit jure, et
 charge sour mise des parties, et trove fut qe le pre-
 decessour le demandant fut disseisi auxi com fut suppose
 par son bref. Et enquis fut outre de soun dreit, ou fut
 trove qe luy et ces predecessours devant ly, Deanz de
 Welles,¹ avoit este seisi de mesme la baille de temps
 dount memore, &c., com dreit de lour decene; par quei
 fut arde qe le Dean recoverast sa seisine, &c.

(5.)² § Le tenant pleda par *Blayk*. qe la terre fuit Dower
 done a soun pere, [de qi seisine la demandante ore⁴ demande
 et a sa mere et les heirs de lour corps, &c., par la
 et il est issue entre eux en la taille, et ceste qe demande seconde
 est la seconde femme son pere];⁵ jugement si de tiel femme
 estat deyve dower avoir.—*Gayn*. Seisi si qe dower vers lissue
 nous pout en soun demene come de fee;⁶ prest, &c. en la
 [Blayk. Jay conu la seisine com de fee, par qay il taille.³
 ne bosoigne pas de laverer.—*Gayn*. fuit mys de res-
 poundre, qe dit seisi en son demene com de fee
 simple; prest, &c.].⁷—*Et alii e contra*.—*Quere*, si le
 baroun purchacea relees del donour issint qil avoit lun
 estat et lautre, si la femme averoit dower.—*Videtur*
 par cest averement *quod sic* la ou estat par la taille nest
 pas traverse.

¹ MS., Ville et.² From T., 16,560, 25,184, and Harl.³ The marginal note, except the word Dower, is from 25,184 alone.⁴ ore is from 25,184 alone.⁵ The words between brackets are omitted from T.⁶ 25,184, fee simple.⁷ The words between brackets are omitted from T. and 25,184.

Nos. 6-9.

A.D. 1342.
Attach-
ment on
Prohibi-
tion.

(6.) § Attachment on Prohibition. The Sheriff returned that the defendants *non sunt inventi*, and the plaintiff was essoined. The essoiner prayed a *Capias* and had it.

Note as to
false
Latin.

(7.) § Note that a *Præcipe quod reddat* was abated after view for false Latin, to wit, *Præcipe, &c., quiquaginta solidos redditus*, which has no meaning, because *quin* and *qui* are different.

Note:
twelve are
necessary.

(8.) § Note that two persons made their law as to non-summons, and eight with them; and because they had no more to perform their law, seisin of the land was awarded [to the demandant].

Debt
against
several
executors.
And note
that no
one shall
answer
before the
distress be
returned
against
them all.
And so
note the
Statute.¹

(9.) § Debt against executors.—At the Grand Distress one of them came, and the plaintiff counted against him.—*W. Thorpe*. There are other executors named, and they do not come; wherefore without them the law does not put us to answer.—*R. Thorpe*. The Statute¹ serves us, so that you shall answer alone.—*W. Thorpe*. On a previous day the Grand Distress was returned against the others, and we appeared, and you ought to have counted at that time, and you have let pass your time, and the advantage which the Statute

¹ 9 Edw. III. Stat. 1. c. 3.

Nos. 6-9.

(6.)¹ § Attachement sur la prohibicion. Le Vicounte retourna qe les defendants *non sunt inventi*, et le pleintif est² essone. Lessonour pria le *Capias* et habuit. A.D. 1342.
Attache-
ment sur
prohibi-
cion.²

(7.)⁴ § *Nota* qe *Præcipe quod reddat* apres la viewe fuit abatu par faux latyn, saver, *Præcipe se quinquaginta solidos redditus*, qe ne doune pas entendement, qar *quin* et *qui diversantur*. Nota de
faux
Latin.⁵

(8.)⁶ § *Nota* qe deux firent lour ley de noun-somons, et viij ovesqe eux; et pur ceo qils navoient pas plus⁷ de parfournier lour⁸ ley, seisine de terre fuit agarde.⁹ Nota:
xij requir-
untur.

(9.)¹⁰ § Dette vers executours.—A la graunt destresse un vynt, et le pleintif counta vers luy.—*W. Thorpe*. Il sont autres¹¹ executours nommes qe ne vieignent pas; par quei saunz eux la ley ne nous mette a respondre.—*R. Thorpe*. Statut nous sert qe vous respoundrez soul.—*W. Thorpe*. Altrefoitz fut la graunt destresse retournee vers les autres, et nous apparusmes, a quel temps vous duisiez avoir counte,¹⁴ et issi avez sursis¹⁵ vostre temps,

Dette vers plu-
sours,¹¹
executours.
Et nota qe
nul res-
pondra
avant qe la
destresse
soit re-
tourne
sout eux
trestous,
&c. Et sic
nota Sta-
tutum.¹²

¹ From T., 16,560, 25,184, and Harl.

² The words sur prohibicion are omitted from 16,560.

³ est is omitted from 16,560.

⁴ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., B^o. 51. It there appears that the action was one of Formedon in the Descender brought by William de Audele against William le Harpere, of Horseheath, in respect of 50 acres of land, &c., in Horseheath (Cambridgeshire).

⁵ The marginal note is from 25,184 alone. In T. there is none; in 16,560 it is *Nota* only; in Harl. it

is *Præcipe quod reddat* abatu apres la veue.

⁶ From T., 16,560, 25,184, and Harl.

⁷ Harl., plusours.

⁸ T., 16,560, and Harl., la.

⁹ In 16,560 is added *Scilicet*.

¹⁰ From T., 16,560, 25,184, and Harl., until otherwise stated.

¹¹ The word plusours is from Harl. alone.

¹² The words in the marginal note after executours are from 25,184 alone.

¹³ T., Illy sont plusours; 16,560, il y ont autres, instead of il sont autres.

¹⁴ Harl., acompte.

¹⁵ Harl., sursissee.

No. 9.

A.D. 1342. gives you, and taken process by common law ; wherefore, &c.—*R. Thorpe*. The Grand Distress on the others was never returned before now.—And this was found to be so.—*STONORE*. We have looked at the Statute, which purports that when the Grand Distress is returned, if the others do not come, he who shall come first shall answer ; wherefore answer.—*W. Thorpe*. We came before by the Grand Distress, and the Statute is to be understood that whoever comes first by the Distress shall answer.—*STONORE*. He shall not do so before the writ be returned against all the others.—*W. Thorpe* answered, and traversed the testator's deed.—*R. Thorpe*. We pray process against the others who do not come.—*STONORE*. You shall not have it, for then it would be error for one alone to answer.

Debt.

§ On a writ of Debt brought against three executors one appeared to the *Pone per vadium*, and two made default, wherefore the Distress was awarded against them, and *idem dies* given to the one who appeared. On the day of the return of the Grand Distress all made default. An *Alias* Grand Distress issued against the two, and the Grand Distress against the one who appeared before, which were returned now ; and now the one who had appeared made default, and the other two came.—The plaintiff prayed that he might be allowed to count against them by virtue of the Statute,¹ because the Grand Distress was returned against the third who did not come. To this it was said that he had sued an *Alias* Grand Distress against the two, and also that the other had appeared in Court, and so the plaintiff had commenced his suit as at common law, and for that reason could not now be aided by Statute.—And,

¹ 9 Edw. III. Stat. 1. c. 3.

No. 9.

et avantage qe lestatut vous doune, et pris proces¹ par A.D. 1342. comune ley; par quei, &c.—*R. Thorpe*. La graunt destresse devant ore unques ne fuit retourne sur les autres.—Et ceo fuit trove issint.—*STON*. Nous avoms vieu² lestatut, qe voet quant la graunt destresse est retourne, si les autres ne veignent,³ qe celui qe vendra a primes respoundra; par quei responez.—*W. Thorpe*. Nous venimes⁴ altrefoit par la graunt destresse, et le statut est a entendre qe⁵ qi qe primes vient par la destresse⁶ respoundra.⁷—*STON*. Noun fra devant qe le bref soit retourne⁸ devers touz les autres.—*W. Thorpe* respoundi, et traversa le fait le testatour.—*R. Thorpe*. Nous prioms proces vers les autres qe ne viegnent pas.—*STON*. Noun avez, qar donques serroit il erreur qe lun soul respoundreit.

§ En⁹ un bref de dette porte vers iij executours un Dette. apparust al *Pone per vadium*, les ij firent defaute, par quei la destresse fut agarde vers eux, et *idem dies* done a celui qe apparust. Jour de grant destresse retourne touz firent defaute.¹⁰ La grant destresse *sicut alias* issit vers ces ij, et la grant [destresse] vers lautre¹¹ qe apparut devant retournu a ore; et ore cesti qe apparust fist defaute et les autres ij venderent.—Le pleintif pria qil put counter vers eux par benefice destatut, *eo quod* la grant destresse fut retourne vers le tercie qe ne vynt pas, a qi fut dit qe devers les ij il avoit suy la grant destresse *sicut alias*, et auxint qe lautre avoit apparu en Court, issint avoit il comense sa suyt auxi comme a la comune ley, par quei par estatut il ne put ore estre eide.—Et, pur ceo qe nul des

¹ proces is omitted from Harl.

² vieu is omitted from Harl.

³ 25,184, viegnent.

⁴ 25,184, dioms.

⁵ qe is from 16,560 alone.

⁶ The words par la destresse are omitted from T.

⁷ 16,560, rendra.

⁸ Harl., retourne; the other MSS., servi.

⁹ This report of the case is from L. alone.

¹⁰ MS., defens.

¹¹ MS., les autres.

Nos. 10, 11.

A.D. 1342. because none of the executors had previously appeared in Court after the Grand Distress had been returned against the others, the Court was of opinion that the plaintiff was in the case of the Statute, and put the two to answer without waiting for the coming of the third, &c.

*Quare
impedit.*

(10.) § *Quare impedit* for the King against the Bishop of Chichester and another. The Bishop came and claimed only the right of institution and deprivation as Ordinary.—And the King was to have a writ to the Bishop.—And note that the writ ought not to issue before the suit be determined against the other person named in the writ.

Account
against
two in
common.
(One was
outlawed
by process.
Notwith-
standing
this, the
other was
compelled
to answer.
And note
that this
is now the
common
course.

(11.) § Clemence de Vescy brought a writ of Account against John de Bekingham the elder, as receiver in several counties, and Robert Brady, who was outlawed on this writ; wherefore she counted against John alone. And exception was taken to the writ on the ground that the writ was abated by the outlawry as much as it would be by the death of the party.—And this was not allowed, because she could not have any other writ.—And thereupon he traversed the writ as to certain counties. And as to the receipt in the county of Huntingdon by the hand of William Thorpe, he admitted the receipt, but he said that William Thorpe was the lady's general attorney, and that she owed him

Nos. 10, 11.

executours avoit apparu en Court devant, apres ceo qe A.D. 1342. la grant destresse fut retournu vers les autres, fut avys a la Court qe le pleyntif fut en cas destatut, et mistrent les deux de respondre saunz attendre la venu de terce, &c.

(10.)¹ § *Quare impedit* pur le Roi vers Levesqe de Cicestre² et un altre. Levesqe vynt et ne clama forsque institution et destitucion³ com Ordiner.—Et le Roi averoit⁴ bref al Evesqe.—[*Et nota* qe le bref ne deit pas issir avant qe la suite soit termine vers lautre nomé en bref.]⁵

Quare impedit.

(11.)⁶ § Clemence de Vescy porta bref dacompte vers Johan de Bekingham leigne, come resceyvour en plusours countees, et Robert Brady,⁸ qest utlage en ceo bref; par quei ele counta vers Johan soul.—Et le bref fuit challenge de ceo qe le bref est abatu par lutlagerie si avant come par sa mort.—*Et non allocatur*, qar altre bref⁹ ne poet il aver, ou il traversa le bref en certeyns¹⁰ countees.¹¹ Et quant a la resceite en le counte de Huntindone par la mayn William Thorpe, il conust la resceite, mes il dit qil fuit general attourne la dame,

*Acompte*⁷ vers ij en comane. Un par proces fuit utlage. *Hoc non obstante*, lautre fuit chace a respoundre. *Et nota* qe ceo est comune cours ore.

¹ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 28. It there appears that the action was brought by the King against the Bishop of Chichester and Master Thomas Pacchyng in respect of a presentation to the church of Clayton (Sussex).

² Harl., Cicestre.

³ The words *et destitucion* are omitted from Harl.

⁴ T., *avera*.

⁵ The words between brackets are from T. alone. It appears by the *Placita de Banco*, as above, R^o. 31, that judgment was given

for the King separately on Pacchyng's default.

⁶ From T., 16,560, 25,184, and Harl. (until otherwise stated), but compared with the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 28. See also R^o. 176 d, as to Braddee's (otherwise Bradegh's, otherwise Brady's) outlawry.

⁷ All the words of the marginal note after *Acompte* are from 25,184 alone. In T. the marginal note is *De compoto*.

⁸ Braddee in the record.

⁹ The word *bref* is omitted from 25,184.

¹⁰ 25,184, *les*.

¹¹ The words *en certeyns countees* are omitted from 16,560 and Harl.,

No. 11.

A.D. 1342. a certain sum of money, and William Thorpe owed her a certain farm, which farm she assigned to him in payment of the debt, and in this way he received the money, and not so that he should render an account of it; ready, &c.—*R. Thorpe*. As to his traverse of our writ in the other counties, we will maintain our writ; and whereas he has acknowledged the receipt, and said that the lady owed him a certain debt and that this was assigned to him, &c., he shows nothing to prove it; wherefore we pray the account, and that which he has shall be allowed to him before the auditors.—*Blaykeston*. I have admitted a receipt of my own money, which is not the subject of an account.—*Thorpe*. The cause of the debt can not be tried between us now; then, since I can not have an answer to that, and the receipt is acknowledged, there is nothing to do but to award the account; and naturally what is due to you will be allowed before auditors, and not before. And we saw at York that the defendant in a writ of Account said that he was the plaintiff's yeoman, and received, &c., and accounted every day for the day's receipts in the evening, and he was put to account.—And afterwards *R. Thorpe* said that, because it was to the advantage of the plaintiff, he would aver that the defendant was receiver as was supposed by his writ; ready, &c.—And the other side said the contrary.—*Quære* as to this plea.

Account. § On a writ of Account which a lady brought against one J. de Bekynham the count was that J. had received 10*l.*, through the hand of W. Thorpe, wherewith to traffic.—J. came and said that he was at the same time

No. 11.

et qe ele luy devoit certeyn somme de deners,¹ et William Thorpe la devoit certeyn ferme,² la quele ferme ele assigna a lui en paiement de la dette, et issint resceut il les deners, et noun pas dacompte rendre; prest, &c.—*R. Thorpe.* Quant a ceo qil traverse nostre bref en les autres countes,³ nous voloms meyntener nostre bref; et quant a ceo qil ad conu la resceite, et dit qe la dame luy devoit certeyn dette,⁴ et qe ceo luy fuit assigne, &c., de ceo ne moustre il riens; par quei nous prioms lacompte, et ceo qil ad luy serra allowe devant auditours.—*Blayk.* Jay conu une resceite de mes deners propres, qe ne chiet pas en acompte.—*Thorpe.* La cause de la dette ne poet estre trie entre nous a ore; donques, quant jeo ne puisse aver respons a ceo,⁵ et la resceite est conu, il ny ad forsque dagarder lacompte; et naturellement devant auditours ceo qe vous est due⁶ vous serra allowe, et noun pas devant. Et nous veymes⁷ a Everwik qe le defendant en bref dacompte dit qil fuit le vadlet le pleintif, et resceut, &c., et acompta⁸ chesqun jour de la journe au seir,⁹ et fuit mys dacompter.—*Et postea R. Thorpe* dit qe, pur ceo qe cest en avantage le pleyntif, il voleit averer qil fuit resceyvour solonc ceo qe fuit suppose par soun bref;¹⁰ prest, &c.—*Et alii e contra.*—*Quære de isto placito.*¹¹

§ En¹² un bref dacompte qun dame porta vers un J. de Bekynham le conte fut qe J. avoit resceu xli par my la mayn W. Thorpe a marchandre.—J. vynt et dit qil fut general attourne la dame a mesme cel

¹ Harl., diners.

² The record, *xv libras et x s.*

³ The words en les autres countes are omitted from 16,560 and Harl.

⁴ T., dept.

⁵ 25,184, averer a ore, instead of aver respons a ceo.

⁶ 16,560 and Harl., done.

⁷ Harl., venismes.

⁸ 25,184, counta.

⁹ T., a seignur.

¹⁰ In the record the words are "prout superius versus eum naravit."

¹¹ The last sentence is omitted from T.

¹² This report of the case is from L. alone.

A.D. 1342.

[Fitz.
Accompt,
53.]

Acompte.

No. 12.

A.D. 1342. at which the receipt was assigned, and had been long before, the lady's general attorney, that the lady was bound to him in the sum of ten pounds for his service, and in respect of the same 10*l.* she appointed W. Thorpe to pay the aforesaid 10*l.*, whereof the receipt, &c., and so he received the same 10*l.* as his own money, and ought not to account for such a receipt.—*Thorpe*. Sir, you see plainly how he has admitted the receipt of the 10*l.* and he shows nothing in proof of the debt or of the appointment of which he speaks; therefore the law does not put us to answer to that; and therefore we pray that he be adjudged to account.—And then J. said: We so received the 10*l.* as our own money *absque hoc* that we received on condition to account as the lady supposes; ready, &c.—And the other side said the contrary.

Account.
And note
that, if re-
ceipt be
found, but
by the
hand of a
person
other than
the person
as to whom
the plain-
tiff has
counted,
the writ
and the
count will
abate.

(12.) § Account against a receiver, who received by divers hands.—*Thorpe*, as to part, admitted the receipt, and said that he always had been and was ready to account; and as to other receipts he said that he received—and he showed how much—by the hands of persons other than the persons as to whom the plaintiff had counted, and not by the hands of those as to whom the plaintiff had counted; ready, &c.,—*Gaynesford*. Our receiver, as we have counted; ready, &c.—*Thorpe*. By that issue it will not be enquired by whose hands we were receiver; and in this special case that ought specially to be enquired, because we admit that we were your receiver, but by the hands of persons other than

No. 12.

temps a quel le resceit fut assigne, et longtemps devant A.D. 1342. avoit este, qe la dame luy fut tenux en *xli* pur son service, et pur mesmes lez *xli* ele assigna W. Thorpe a payer lez avant ditz *xli*, des quex la receit, &c., et issint resust il mesmes les *xli* com cez deners propres, et ne doit¹ pas de tiel resceit accompter.—*Thorpe*. Sire, vous veiez bien coment il [ad] conu la resceit de les *xli*, et de la duyte ne del assignement, des quex il parle, il ne moustra rien; par quei a cella le ley ne nous mette a respoudre; par quei nous prioms qil soit ajuge dacompter.—Et pus J. dit issint ressumes les *xli* com nos deners propres, sanz ceo qe nous ressumes dacompter, auxi com la dame suppose; prest, &c.—*Et alii e contra, &c.*

(12.)² § Accompte vers resceyvour, qe resceust par Acompte. divers mayns.—*Thorpe*, quant a partie, conust la *Et nota* resceite, et dit qe tut temps fuit et⁴ est prest resceite dacompter; et quant a altre resceite il resceut, et soit trove, moustra combien, par altri mayns qe le pleintif navoit altri mayn counte,⁵ et noun pas⁶ par meyns de ces qil avoit counte; qe le pleintif ad prest, &c.—[*Gayn*. Nostre resceyvour solonc ceo qe counte, le nous avoms counte; prest, &c.]⁷—*Thorpe*. Par⁸ cele bref et le issue ne serra pas enquis par qi mayns nous fumes⁹ abatera.³ resceyvour; et ceo covient en ceo cas especial estre [Fitz. Accompt, enquis, qar nous conissons estre vostre resceyvour, mes 54.]

¹ MS., toit.

² From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 86. It there appears that the action was brought by Gerard de L'Isle (*Gerardus de Insula*) against John son of Robert de Hulle of Kissingbury (Northamptonshire).

³ The marginal note, except the word Acompte, is from 25,184

alone. In T. the marginal note is *De Compoto*.

⁴ The words fuit et are omitted from Harl.

⁵ Harl., compte.

⁶ pas is not in Harl.

⁷ The words between brackets are omitted from 16,560 and Harl.

⁸ Harl., pur. The word is omitted from 25,184.

⁹ 25,184, sumes.

No. 12.

A.D. 1342. those as to whom you have counted ; and in respect of that receipt which we admit you will have another action, and enquiry ought to be had of it specially, for otherwise, if we should be now charged according to your count, you will have another action for the particular account which we have admitted.—STONORE. He will not have it; for if he take the account on your admission, you will account for those receipts which you admit, and that seems reasonable.—*Thorpe*. It was the custom to count in general terms that the defendant was the plaintiff's receiver, without saying by whose hands; and afterwards, in order to oust the defendant from his wager of law, the mode was invented of counting of a receipt by the hands of other persons; wherefore this is of the substance; and on this count which he has counted he can not have an account except of a receipt by the hands of those of whom he counted.—*Gaynesford*. As to part of the receipts in this case he has given me a traverse, and as to that part I will aver my writ; and as to what he has admitted I think I shall have the account.—*Thorpe*. Certainly never.—*Gaynesford*. We will aver that you were our receiver in the form in which we have counted; ready, &c.—STONORE. That is sufficient, for then he will aver the receipt to have been such as he has counted, and by the hands of the same persons as he has supposed by the count; wherefore the issue is good.—*Thorpe*. The issue is too general.—STONORE. It is not so; enough has been said as to that which you have admitted to have received by the hands of others; you have said that you are ready to account; but as

See as to
the ancient
count on a
writ of
Account.

No. 12.

par altri mayns qe vous navez counte; et de cele resceite A.D. 1342. qe nous conissoms vous averez¹ altre accion, qe covient estre enquis en especial, qar autrement, si nous fussoms charge a ore solonc vostre counte, vous averez altre accion del acompte demene² qe nous avoms conu.—STON. Noun avera; qar sil preigne lacompte de vostre conissaunce³ vous accompteres de celes resceites qe vous conisses, et ceo semble resoun.—*Thorpe*. Homme soleit counter generalment qe le defendant fuit soun resceyvour, saunz dire par qi mayn; et donques, pur ouster homme de sa ley, fuit ceo controve⁴ de counter⁵ de resceite par altri mayn; par quei cest de la substaunce; et sur ceo count⁷ qil ad⁸ counte ne put il aver acompte⁹ mes de resceite par¹⁰ mayns¹¹ de ces qil ad counte.¹²—*Gayn*. En partie de les resceites si moy ad il traverse, de quei jeo voille averer moun bref; et de ceo qil ad conu jeo entend daver lacompte.—*Thorpe*. Certes jammes.—*Gayn*. Nous voloms averer qe nostre resceyvour en la fourme come¹³ nous avoms counte;⁷ prest, &c.—STON. Ceo suffit, qar donques voet il averer la resceite tiel quele¹⁴ il ad¹⁵ counte, et par mayns de mesmes ces qil ad suppose par counte; par quei lissue est bon.—*Thorpe*. Lissue est trop general.—STON. Nanyl; assez est parle de ceo qe vous avez conu la resceite par altri mayns; vous avez dit qe vous estes prest dacompter; mes quant a ceo qe vous

*Vide de antiqua narratione in brevi de compoto.*⁴

¹ T. and 25,184, est, instead of vous averez.

² demene is omitted from T. and 25,184.

³ 25,184, conisour.

⁴ The marginal note is from 25,184 alone.

⁵ 16,560, contrue.

⁶ Harl., comppter.

⁷ Harl., compte.

⁸ 16,560, avoit.

⁹ The words ne put il aver acompte are omitted from 25,184.

¹⁰ T., de.

¹¹ The words par mayns are omitted from 16,560.

¹² Harl., compte.

¹³ 16,560 and Harl., qe.

¹⁴ T., come.

¹⁵ ad is omitted from 16,560 and Harl.

No. 12.

A.D. 1342. to that you are not yet adjudged to account; but it shall be entered, and also the issue which he has offered and which you have traversed, &c.—*Quære.*

No. 12.

nestes pas agarde dacompter unquore; mes il serra A.D. 1342.
entre, et lissue quel il ad tendu et qe vous avez tra-
verse auxi, &c.¹—*Quære.*

¹The issues joined appear on the roll thus :—

“ Et quoad hoc quod prædictus
“ Gerardus supponit ipsum esse
“ receptorem denariorum ipsius
“ Gerardi, scilicet de quadraginta
“ libris apud Kyngestone del Isle,
“ per manus Radulphi de Bathel-
“ kyng, per tempus prædictum, in
“ prædicto comitatu Berkescire,
“ dicit quod ipse non extitit re-
“ ceptor denariorum ipsius Gerardi
“ in comitatu illo, sicut prædictus
“ Gerardus versus eum narravit.”
Issue was joined thereon.

“ Et quoad hoc quod prædictus
“ Gerardus supponit ipsum fuisse
“ receptorem denariorum ipsius
“ Gerardi a festo Sancti Michaelis
“ anno regni domini Regis nunc
“ quarto usque ad festum Pasche
“ anno regni domini Regis nunc
“ sextodecimo, et per idem tempus
“ supponit ipsum recepisse de dena-
“ riis ipsius Gerardi, apud Kyslyng-
“ bury in eodem comitatu North-
“ amptonie, centum libras per
“ manus Willelmi Broun, et apud
“ Stowe in eodem comitatu cen-
“ tum et decem libras per manus
“ Simonis Eliot, et apud Walbertone
“ in comitatu Sussexie sexaginta
“ libras per manus Ade de Rustyn-
“ tone, et apud Abbotestone in
“ comitatu Suthamptonie centum
“ marcas per manus Ricardi Gru-
“ gan de Abbotestone, ad compu-
“ tandum, &c., dicit quod ipse
“ extitit receptor denariorum ipsius
“ Gerardi a prædicto festo Sancti
“ Michaelis anno regni domini
“ Regis nunc quarto usque festum

“ Apostolorum Petri et Pauli anno
“ regni ejusdem domini Regis
“ sexto. Et per idem tempus recepit
“ per manus ipsius Gerardi apud
“ Stowe in prædicto comitatu
“ Northamptonie duodecim libras
“ et viginti denarios, et per manus
“ Roberti Est, præpositi ibidem,
“ sexaginta solidos, et etiam per
“ manus ipsius præpositi ibidem
“ quinquaginta solidos et undecim
“ denarios. Et etiam in comitatu
“ Sussexie apud Walbertone recepit
“ ipse per manus prædicti Gerardi
“ et diversorum hominum sexagin-
“ ta et unam libras, duos solidos,
“ octo denarios, et unam quadran-
“ tem, et etiam in comitatu Suth-
“ amptonie per manus præpositi
“ manerii de Abbotestone apud
“ Abbotestone septem libras, tres-
“ decim solidos, et quinque dena-
“ rios. Et sic dicit quod ipse
“ recepit per idem tempus denarios
“ illos per manus ipsorum Gerardi,
“ Roberti Est, præpositi, et
“ diversorum hominum, et præ-
“ positi de Abbotestone, unde ipse
“ paratus est computare, et semper
“ hucusque paratus fuit computan-
“ di, si, &c., absque hoc quod ipse
“ extitit receptor denariorum ipsius
“ Gerardi in forma qua prædictus
“ Gerardus versus eum narravit.
“ Et hoc paratus est verificare, &c.
“ Et Gerardus dicit quod prædic-
“ tus Johannes extitit receptor de-
“ nariorum ipsius Gerardi per
“ tempus prædictum in forma qua
“ idem versus eum narravit.”

Issue was joined thereon, and the *V'enire* was awarded.

No. 13.

A.D. 1342. (13.) § The Abbot of Westminster brought a writ of Trespass, for that the defendants had disturbed the plaintiff's bailiffs in holding his View of Frank-Pledge, whereupon the defendants said that they had not a View, but that their lord had it. And they were at issue whether the plaintiff had a View or not. So note that, on this writ of Trespass, the issue was taken on the cause comprised in the writ. See above, Easter in the 10th year,² on a

Trespass against Hasculf¹ de Whitewelle and R. de P. and others for that he and the others had disturbed the Abbot's bailiffs in holding the Abbot's View of Frank-pledge at Mulsham, which View the Abbot had by grant from the King's progenitors and confirmation of the present King.—*Gaynesford*. Show what you have to prove the grant and confirmation.—HILLARY. He shall not do so, either to you or to the Court, unless it were in a *Quo Warranto*.—*Gaynesford*. Then we tell you, as to the coming with force and arms, Not Guilty, and that John de Lisle has a View in Mulsham to be holden on the same day as that in respect of which you have counted, without this that any other person has a View in that vill, and John has that View as appendant to his manor of Mulsham, and he and the tenants of the manor have had it since time of memory; and we tell you, for R., that he came as John's steward on the same day to hold his lord's View, and the Abbot by his officers would have disturbed him, and he did not allow them to do that to the prevention of his holding his lord's View, without doing anything against the peace; and Hasculf is chief steward, and sat beside R. when he held the View, and the others are officers who did execution by order of the steward.—*Thorpe*. First

¹ This name appears to be usually written Hasculphus, Hasculfus, Asculphus, or Asculfus, in the records. Compare, however, the Italian Astolfo, the French Astolphe

or Astolfe, and the Y.B. forms, Hastulf, Astulf, Astolf, &c.

² Y.B. Easter, 10 Edw. III., fo. 12, No. 12.

No. 13.

(13.)¹ § Labbe de Westmestre porta bref de trespas vers Hastulf² de Whitewelle, et R. de P., et altres, de ceo qe luy et les altres avoint destourbe ses baillifs a tener sa vieve de fraunc plegge a Mulsham,³ quele vieve il avoit par graunt des⁴ progenitours et conformement le Roi qe ore est.—*Gayn.* Moustrez ceo qe vous avez de graunt et conformement.—*HILL.* Noun fra, ne a vous ne a la Court, si ceo ne fuit en *Quo Warranto*.—*Gayn.* Donques vous dioms quant al vener a force et armes, de rien coupable, et qe Johan del Ylle⁵ ad vieve en Mulsham a tener par mesme le jour qe vous avez counte, saunz ceo qe altre eit⁶ vieve en⁷ cele ville, et ceie⁸ vieve ad Johan come⁹ appendaunt a soun maner de Mulsham, et ceo ad il et les tenantz du maner eu puis temps de m^emoire; et vous dioms, pur R.,¹⁰ qil vynt come seneschal Johan a mesme le jour a tener la vieve soun seigneur [et Labbe par ses ministres lui voleit aver destourbe, et il ne lessa pas par taunt qil ne tient la vieve soun seigneur]¹¹ [saunz rien faire encountre la pees; et Hastulf¹² est chief seneschal et sist pres de R. quant il tint la vieve],¹³ et les altres sount ministres¹⁴ qe firent execucion par comandement¹⁵ le seneschal.—

A.D. 1342.
Trespas, de ceo qe le defendant avoit destourbe ses baillifs a tener sa vieve de fraunc plegge, ou les defendants disoient qils navoient mye vieve, eins lour seigneur lavoit. Et sont a issu lequel le pleintif ad view ou noun. *Sic nota*, en ceo bref de trespas, issu pris soun la cause compris en le bref. *Vide supra P. x. tali*

¹ From T., 16,560, 25,184, and Harl. (until otherwise stated), but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 51. It there appears that the action was brought by the Abbot of Westminster against Peter de Wendover, Hasculf de Whitewelle, John de Dunstable, and John le Glovere of Chelmsford.

² 16,560, Astolf; 25,184, Astulf.

³ T., Musham; Mulsham in Essex, according to the record.

⁴ 16,560 and Harl., de ses.

⁵ T, de Idle, instead of del Ylle.

⁶ 25,184, avoit.

⁷ 16,560 and Harl., de.

⁸ 25,184, tiele.

⁹ 25,184, conu.

¹⁰ For Peter de Wendover, according to the record.

¹¹ All the words between brackets are omitted from 25,184, and the words soun seigneur from 16,560.

¹² 25,184, Astulf.

¹³ The words between brackets are omitted from 16,560.

¹⁴ 25,185, mustrez.

¹⁵ 16,560, covin.

No. 13.

A.D. 1342. of all he takes his plea by destroying the cause of our
 like writ, and above, Michael-
 mas in the 13th year¹
 on a like writ.

plaint, and also it was commenced by way of justification, and then when coming down to his conclusion he says that he has done nothing against the peace, which amounts to traversing the disturbance, without denying that we have a Leet; so his answer is contradictory; judgment, and we pray our damages.—*Blaykeston*. If what we say is true, we did nothing against the peace. HILLARY. We must know whether you will justify the act or not.—*Gaynesford*. We tell you that we came as above, without this that the Abbot has a View there, as he supposes by his plaint; ready, &c.—*Derworthy*. You shall not be admitted to say that the Abbot has not a View, for in the Essex Eyre, in the time of the grandfather of the present King, the Abbot was summoned to show by what warrant he claimed a View, &c., in Mulsham, of which vill we tell you the Abbot is lord, and in that Eyre the predecessor of this Abbot came and claimed the View by the grant of King Henry,² and had it then allowed; and at that time one W., whose estate John has, was of full age, and claimed nothing in the View; judgment whether you shall be admitted.—And he showed the record and a confirmation of the charter.—*Gaynesford*. Their plea is double; one is that they claim the View by the King's charter; the other is that by the non-claim in the Eyre on the part of him whose estate we have, the View which we claim was lost.—SHARDELOWE. It is not double; it is all one answer and is on the record.—And afterwards *Derworthy*, for the plaintiff, said that the King granted

¹ Y.B., M., 13 Edw. III., No. 88.

² Henry III., according to the record.

No. 13.

Thorpe. Primes prent il soun plee en destruant² la cause de nostre pleynte, et auxi comence³ fuit par voie de justificacioun,⁴ et puis descent il en sa conclusion qil nad rien fait encountre la pees, qest a traverser la destourbaunce, nient dedisant qe nous avoms lete; issint soun respouns contrariaunt; jugement, et prioms nos damages.—*Blayk.* Si⁵ nous dioms verite, nous fines riens encountre la pees.—*HILL.* Nous saveroms si vous voillez justifier⁶ le fait ou noun.—*Gayn.* Nous vous dioms qe nous venismes⁷ *ut supra*, saunz ceo qe Labbe ad viewe auxi come il suppose par sa pleynte illoeges; prest, &c.—*Derworthy.* A dire qe Labbe nad pas viewe ne serrez⁸ pas resceu, qar en Leir de Essex, en temps laiel le Roi qe ore est, Labbe fuit somons par quel garrant il clama viewe, &c., en Mulsham, de quele ville vous dioms qe Labbe est seigneur, en quel Heir¹⁰ le predecessour cestuy Abbe vynt et clama viewe par graunt le Roi Henri, et lavoit adonques allowe; et adonques un W.,¹¹ qi estat Johan ad, fuit de pleyn age, et rien ne clama en la viewe; jugement si vous serrez resceu.—Et moustra le record et confermement de la chartre.—*Gayn.* Lour plee est double; un est qil cleyment¹² viewe par la chartre le Roi; autre est qe par non¹³ clamer de celui qi estat nous avoms, en Eyre,¹⁴ la viewe qe nous clamoms fuit perdu.—*SCHARD.* Noun est pas, tut est un respouns et sur record.—Et puis *Derworth.*, pur le pleyntif, dit qe le Roi graunta

A.D. 1342.
*brevi, et
supra.*
M. xiiij.,
*tali brevi.*¹
[Fitz.
*Mon-
strans de
Faits, &c.,*
168.]

¹ The words of the marginal note subsequent to the word *veve* first there written are from 25,184 alone. In 16,560 the marginal note is *Trespas de veve destourbe*, in Harl. *Trespas* alone.

² T. and 25,184, *traversant*.

³ T., 16,560, and Harl., *come ceo*.

⁴ T., *ratificacioun*.

⁵ 25,184, *Et*.

⁶ 25,184, *mustrer*.

⁷ The words qe nous venismes (in Harl. *veims*) are omitted from T. and 25,184.

⁸ Harl., *serreit*.

⁹ 25,184, *Excestre*.

¹⁰ Harl., *lieu*.

¹¹ John de Mulsham, according to the record.

¹² 16,560, *clament*.

¹³ T., *nynt*; 25,184, *nient*.

¹⁴ T., *Eir*; Harl., *Eire*.

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A.D. 1342. to his predecessor the View, &c., and that afterwards in the Eyre, as above, this was so adjudged, and so he had the View; ready, &c.—*Gaynesford*. We will imparl.—*Thorpe*. You shall not do so; for we maintain our writ against the averment by which you have traversed it, that is to say, that we have not a View, ready, &c; which averment you do not maintain; judgment.—*Stouford*. We have said that there is only one View, which we, and those whose estate we have, have always had, without this that he has a View; and he does not maintain that there are two Views, or that he has used a View, whereas, even though the King granted a View to him, if he has not used it, that does not give him a View; wherefore the issue is not good.—*HILLARY*. If he has not used the View he can not claim one, and he does not answer as to your View, but you answer to him; wherefore this will make an issue; viz., whether the Abbot has a View or not.—And so it was done

Observe as
to View of
Frank-
pledge
granted,
and not
used by the
grantee.

No. 13.

a son predecessour viewe, &c., et puis en Eire, *ut supra*, celui ci fuit ajuge,¹ et issint ad il viewe; [prest, &c.—*Gayn.* Nous emparleroms].²—*Thorpe.* Noun ferrez; qar nous meynthenoms nostre bref countre lavement par quel vous lavez traverse, cest assavoir qe nous navoms pas viewe, prest, &c.;³ lequel averenent vous ne meyntenez pas; jugement.—*Stouf.* Nous avoms dit qil ny ad qune viewe, quele nous et ces qi estat nous avoms ount eu⁴ de tut temps, saunz ceo qil ad viewe; et il ne meyntien⁵ [pas qil sont deux viewes, ne qil ad use viewe, ou tut graunta le Roi a lui viewe et il nad pas use, ceo ne luy]⁶ doune pas viewe; par quei lissue nest pas bon.—*HILL.* Sil nad pas use viewe il ne poet nule⁷ clamer, et il ne respond⁷ pas a vostre viewe, mes vous responez⁸ a luy; par quei ceo fra issue le quel Labbe⁹ ad viewe ou noun.—*Et ita fuit.*¹¹

*Vide view grante et ne mie use par ly.*¹⁰

¹ Harl., agarde.

² The words between brackets are omitted from 25,184.

³ In T. and 25,184 the words qe cy are added after &c.

⁴ The words ount eu are omitted from T.

⁵ The words between brackets are omitted from Harl.

⁶ T., rien.

⁷ 16,560, and Harl., respondra.

⁸ 16,560 and Harl., respoundrez.

⁹ T., quel il, instead of le quel Labbe.

¹⁰ The marginal note is from 25,184 alone.

¹¹ Harl., *Et alii e contra*. The sentence is omitted from T. and 16,560. The Abbot's replication, upon which issued was joined, was, according to the record, that in the time of Edward I., before Justices in Eyre, the then Abbot of Westminster, in a *Quo Warranto* as to View of Frankpledge, &c., in Mulsham, "dixit quod dominus Henricus Rex,

"pater ejusdem tunc Regis, inter
"alia concessit prædicto Abbati et
"Monachis et successoribus suis
"quod haberent visum franci
"plegii in omnibus terris et tene-
"mentis suis, et protulit ibidem
"chartam ejusdem Henrici Regis
"quæ hoc testabatur, &c., per quod
"idem Abbas tunc ivit inde sine
"die, et retinuit versus dominum
"Regem visum franci plegii præ-
"dictum. Et profert hic quandam
"certificationem sub pede sigilli,
"&c., quæ præmissa testatur. Et
"dicit quod tunc temporis quidam
"Willelmus de Mulsham, tenens
"tenementa quæ prædictus Johan-
"nes de Insula modo tenet, fuit
"plenæ ætatis, et tunc non clama-
"vit aliquem visum franci plegii
"ibidem, unde dicit quod ipse
"Abbas habet visum franci plegii
"ibidem, prout ipse superius per
"breve et narrationem sua præ-
"dicta supponit. Et hoc petit
"quod inquiratur par patriam. Et

No 13.

A.D. 1312.

Trespass.

§ The Abbot of Westminster brought his writ of Trespass against Hasculf de W. and others; and his writ and his count were to the effect that (whereas the Abbot, and his predecessors before him, by divers charters of the progenitors of the present King, and also by confirmation of the present King, have had, ever since the making of the same charters, a Leet in A., to be held there from year to year, on Tuesday in Whitsun week, and this same Abbot on Tuesday in Whitsun week in a certain year had sent thither J. de R. his steward and others of his servants to hold the same Leet) these same H. and the others named with force disturbed the aforesaid J. and the others in holding the aforesaid Leet, and beat and wounded the same people, whereby the same Abbot lost the profits of the same Leet and his services of his people aforesaid for a long time. And the words of his writ were: *et servitium suum hominum suorum predictorum per magnum tempus, &c.*—Rokele took exception to this writ because it was in the words *servitium suum*, whereas it would have been sufficiently good without the word *suum*.—And this exception was not allowed.—*Gaynesford*. Since he claims to have this franchise by royal charters, let him show his charters to the Court.—*SHARSHULLE*. When the King brings his *Quo Warranto* against the Abbot, he will then have time to make *profert* of the charters.—*Pole*. If I brought against you my writ of Trespass for that you had hunted in my warren, and gave it to be understood by my count and by writ that I had that warren by charters from Kings, I should not show any charter to you, nor ought the Court, when the dispute is between party and party, to put a party to produce any charter; wherefore, &c.—And he was not put by the Court to produce any charter.—*Rokele*. Sir, we tell you that J. de Lyle is lord of the vill of A., and has a Leet, in the same vill, appurtenant to

No. 13.

§ L'Abbe¹ de Westmestre porta son bref de trespas vers A.D. 1342. Haustulf de W. et altres; et soun bref et soun conte Trespas. voleit qe, come Labbe, et ces predecessours devant luy, par divers chartres des progenitours le Roy qore est, et auxi confirmacion le Roy qore est, ont ewe lete de temps pus la fesanz mesmes les chartres en A., a tener illoeques dan un an, le Mardy en le Pentecoste, et mesme cesty Abbe en le Mardy en la symayn de Pentecoste certain an avoit maunde illoeques J. de R. soun seneschal et aultres de ces servaunz pur tener mesme la lete, la mesmes ces H. et les autres nomes, &c., a force lavant dit J. et les autrez avant dit lete a tener destourberunt, et mesmes les gens baterent, naufrerent, &c., par quei mesme Labbe les profitz de mesme la lete et soun service de ces genz avant dits par grant temps perdi. Et soun bref voleit *et servitium suum hominum suorum predictorum per magnum tempus, &c.*—Rok. challengea le bref pur ceo qe le bref voleit *servitium suum*, qar tot sanz le *suum* le bref ust este assez boun.—*Et non allocatur.*—Gayn. De pus qil cleyme par chartres de Roy daver ceste franchise, moustre a la Court ses chartres.—SCHAR. Quant le Roy porte vers luy soun *Quo Warranto*, donques ad il temps de mettre avant les chartres.—Pole. Si jeo portase vers vous mon bref de trespas de ceo qe vous ussetz chace en moun garreine, et apprinase par moun counte et par bref qe jeo use cele garreine par chartres des Roys, devers vous jeo ne moustra nul chartre, ne la Court ne deit mye, quant qe le debate est entre partie et partie, de meyittre la partie de mettre nul chartre devant; [par] quei, &c.—Et il ne fut pas mys par la Court de mettre avant nul chartre.—Rok. Sire, nous vous dioms qe J. de Lyle est Seignur de la ville de A., et ad un lete, en mesme la ville,

"Petrus et alii similiter." After award of the *Venire* and continuances "praedictus Abbas non

"est prosecutus," and judgment was given for the defendants.

¹ This report of the case is from L. alone.

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A.D. 1342. his manor of the same vill, to be holden every year on Tuesday in Whitsun week, whereof he, and all his ancestors before him, and the tenants of the same manor, whose estate, &c., have been seised from time whereof memory is not; and we tell you that no other person has a Leet in the same vill, except himself; and we tell you that this same P., who is steward of this same J., on the same Tuesday in respect of which the Abbot complains, came to hold the Leet of the said J., whose steward, &c.; and the others held and would have held a Leet in the name of the Abbot; and this same P. did not allow them to do this to the prevention of his continuing to hold his lord's Leet, and he did that which was appropriate to the holding of the Court, without doing anything against the peace. And as to H., *Rokele* said that he was chief steward of this same J., and came and sat beside this P. while he held the Leet; and as to the others named, &c., they levied the amercements of the same Leet, without doing anything against the peace.—*Thorpe*. Your answer is contradictory in itself, for whereas you say that J. de Lyle has a Leet, &c., and no one else, you thereby contradict our writ, because it is tantamount to saying that we have not a Leet; and then when you say "without doing anything against the peace," inasmuch as you do not justify the act which we surmise against you, that amounts to nothing more than saying that you are Not Guilty, and thereby you admit that we have a View. Therefore you must state your conclusion with certainty, either on one point or on the other.—And he was put to do this by the Court.—Therefore he rehearsed the whole of his answer as before; and he said further: without this that the Abbot has a View, &c., as he supposes, &c.—*Derworthy*. Sir, you see plainly, how they have acknowledged the disturbance, &c., and have justified it on the ground of the right of one who is not a party to this

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appurtenant a son maner de mesme la ville, a tener a A.D. 1342.
 chesqun an, par mardy en la symayn de Pentecoste,
 de quel luy et touz ces ancestres devant luy, et lez
 tenanz de mesme la maner, qestat, &c., ount este seisi de
 temps dont memore nest; et vous dioms qe nul autre
 ad lete en mesme la ville forsqe celui; et vous dioms qe
 mesme cesty P., qest seneschal mesme cesty J., mesme
 le mardy qe Labbe se pleint, vynt pur tener la lete le dit
 J., qi seneschal, &c.; et les aultres tynderent et voleient
 aver tenuz lete en nom labbe; et mesme cesti P. ne
 lessa mye par taunt qil ne tynt avant la lete soun
 Seignur, et fit ceo qe apendit a la journe, sanz rienz faire
 en contre la pees. Et quant a H. il dit qil est chief
 seneschal mesme cesty J., et vynt et assist pres mesme
 cesty P. tant com il teynt la lete; et quant a lez
 aultres nomies, &c., il leverent les amercyementz de mesme
 la lete, sanz rien faire encountre la pees.—*Thorpe*.
 Vostre respouns est contrarie en luy mesme, qar pur ceo
 qe vous ditz qe J. de Lyle ad lete, &c., et nul aultre, la
 estez a contrarie de nostre bref, qar tant amount qe nous
 navoms mye lete, &c.; et pus qant vous ditez sanz rien
 faire contre la pees, de pus qe vous ne justifiez cel fait
 quel nous vous sourmettoms, ceo amount a nul plus mes
 qe vous estez de rien coupable, et en taunt grantez vous
 qe nous avoms vewe. Par quei il covynt qe vous
 mettez vostre conclusion en certen, ou sour lun point ou
 sour lautre.—Et a ceo fut il mys par la Court.—Par quei
 il rehersa tout son respons com devant, et dit outre
 sanz ceo qe Labbe ad vewe, &c., auxi com il suppose, &c.
 —*Derr*. Sire, vous veiez bien coment ils ount conu la
 destourbance, &c., et lount justifie en la dreit celui qe
 nest mye partie a cesty [plee]; par quei nentendoms qe

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A.D. 1342. plea; wherefore we do not understand that such a plea lies in their mouth; and, inasmuch as they have acknowledged the disturbance, we demand judgment.—SHARDELOWE. They have defeated the cause which maintains your action, that is to say, to the effect that you have not a View, &c.—*Derworthy*. His bailiffs being sent there to hold a View, no one can lawfully make disturbance, &c., if he have not a right to do so; since, then, they have not affirmed any right in their own person, but in the person of a stranger who is not a party to us, we demand judgment.—SHARSHULLE. If they had a right to make disturbance, as in the right of their lord, and you have omitted him in your writ, there is no reason, on that ground, that they should be ousted from their answer.—*Gaynesford*. We have not acknowledged any disturbance, but we have shown that the Abbot has not a View, which is the substance of their action, and that he does not maintain; wherefore we demand judgment.—*R. Thorpe*. In every plea of Trespass, when the plea is to the action, the fact must be denied, or confessed and justified by some cause; now they have not denied the fact, but in a manner have justified it on the ground that we have not a View; wherefore, &c.—SHARSHULLE. If the Abbot could prove that he has a View, we hold them convicted of the disturbance, but still they have not expressly confessed the disturbance.—*Derworthy*. Sir, whereas they have said that J. Lyle is lord of the vill of A., and has a Leet as appendant to his manor of the same vill, and has said that he, and his ancestors, and all the tenants of the same manor whose estate he has, from time whereof there is not memory, have had a Leet, to that we say that what they call a manor is but one messuage and so much land, and this same J. de L. holds the same tenements of this same Abbot, as of him who is lord of the vill of A., as the right of the church, &c.; and we tell

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tiel plee en lour bouche gise; et, de ceo qils ount A.D. 1342.
conuz la destourbance, nous demandoms jugement.—

SCHAR. Ils ount defeit la cause qe meintient vostre accion, saver qe vous navez mye vewe, &c.—[*Der.*] Maundes illoques ces baillifs pur tener vewe nul home par ley put faire destourbance, &c., sil neist dreit del faire; depus, donques, qil nont afferme nul dreit en lour persone, mes en la persone un estrange qe nest pas partie a nous, nous demandoms jugement.—SCHAR. Sil avoit cause de faire destourbance, com en le dreit lour seignour, et vous avez entrelesse mesme cesty en vostre [bref], il nest pas reson par tant qils soient oustez de lour respouns.—*Guzyn.* Nous avoms conu nul destourbance, mes avoms moustre coment nad mye vew, le quel chose si est le gros de lour accion, et cele chose ne meintient pas; par quei nous demandoms jugement.—*R. Thorpe.* En chescun plee de trespas, qant home plede al accion, il covynt qe le fet soit dedit,¹ ou conu² et justifie par cause; ore nount il pas dedit le fait, einz par manere lount justifie pur ceo qe nous navoms mye vewe; par quei, &c.—SCHAR. Si Labbe pusse prover qil ad vew, nous lez tenoms atteinz de la destourbance, mes jeidmeins il nount mye [conu] la destourbance expressement.—*Derr.* Sire, la oue [iis] ount dit qe J. Lyle est Seignur de la ville de A., et ad lete com appendant a soun maner de mesme la ville,³ et ad dit qe luy, et ces ancestres, et touz les tenanz de mesme la manere qi estat il ad, de temps dount il ny ad mye memore, ount ew⁴ lete, a ceo vous dioms nous qe ceo qil appellent maner ceo nest qun mees et tant de terre, et mesme cesty J. de L. tient mesmes les tenements de mesme cesty Abbe, com de cesti qest seignur de la ville de A., com dreit deglise, &c.; et vous dioms qe en le

¹ MS., conu.² MS., dedit.³ MS., manere.⁴ MS., vew.

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A.D. 1342. you that in the last Essex Eyre which was in the time of King Edward the grandfather, one B. was tenant of these same tenements, whose estate this same J. de L. has, which B. in this Eyre did not prefer any claim to have a Leet; and we tell you that in the same Eyre one L., predecessor of this same Abbot, came and claimed to have a View, &c., in the same vill of A., to be held as above, whereupon King Edward the grandfather in the same Eyre brought against him a *Quo Warranto*, when L. came and showed that King Henry [III.] had by his charter granted to L. and his successors, &c., a View, &c., in all his demesne lands; and thereupon he then by judgment, &c., retained the View against B.; and we demand judgment whether they ought to be admitted to say that J. de L., who has the estate of B. (who then preferred no claim) has a Leet, or to say that the Abbot has not a View, &c. And thereupon he made *profert* of the charter of King Henry [III.], and of the record of the *Quo Warranto*, *sub pede sigilli*, and a writ of allowance.—And afterwards at another day, before the others had replied to this answer, *Derworthy* came and said that in the Eyre, &c., L. came and claimed a View, &c., and that King Edward, &c., in the same Eyre brought his *Quo Warranto*, and that by judgment, &c., he retained the View against the King by force of the charter of King Henry [III.], as above; and *Derworthy* made his conclusion in the words “and so the Abbot has a View,” &c.—*Stouford*. That is not a proper matter to put in averment to the country—that one has such a franchise by royal charter—because the matter ought properly to be proved by matter of record; wherefore, since we have shown that J. de L., and his ancestors, and all the tenants, &c., have had a Leet, &c., and that there is but one Leet in the vill of A., it appears that the Abbot ought to answer to us whether it be so or not.—SHARDELOWE. He is plaintiff, and

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Eyre de Essexe qe dreyn fut qe fut en temps le Roy E. A.D. 1342. le ael si fut un B. tenanz de mesmes ceuz tenemenz, qi estat mesme cesty J. de L. ad, lequel B. en cele Eyre nul cleyme ne mist daver lete; et vous dioms qen mesme le Eyre un L., predecessour mesme cesty Abbe si, vynt et cleyme daver vew, &c., en mesme la ville de A., a tener *ut supra*, sour quei le Roy E. lael en mesme le Eyre si porta vers luy un *Quo Warranto*, ou L. vint et moustra qe le Roy H. par sa chartre avoit grante a luy et a ces successours, &c., vew, &c., en touz ces demeynes terres; par quei adonques par agarde, &c., si retient il la vew vers luy; et demandoms jugement si a dire qe J. de L., qad lestat B., qe adonques cleymer ne mist, ad lete ou a dire qe Abbe nad mye vew, &c., deyent avener. Et sour ceo il mist avant la chartre le Roy H. et le record del *Quo Warranto*, *sub pede sigilli*, et bref dalauowons.—Et pus a un aultre jour, avant ceo qe lez autres avoient repliez a cel respouns si, vynt *Derr.* [et] dit qe en le Eyre, &c., L. vynt et clama vewe, &c., et coment le Roy E., &c., en mesme leire porta son *Quo Warranto*, et coment par agarde, &c., il retient la vewe vers le Roy par force de la chartre le Roy H., *ut supra*; et fit sa conclusion: et issint ad Labbe vew, &c.—*Stouf.* Ceo nest mye propre chose de mettre en averement de pays—qun home ad un tiel franchise par chartre de Roy—qar la chose proprement deit estre prove par chose de recorde; par quei, de pus qe nous avoms moustre qe J. de L., et ces ancestres, et touz les tenantez, &c., ont ewe lete, &c., et qen la ville de A. il niad qun lete, il semble qe Labbe deit respoundre a nous lequel il soit issint ou ne mye.—SCARTH. Il est¹ pleintif, par

¹ MS., nest.

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A.D. 1342. therefore he must be answered as to his plaint; and since you have traversed his plaint, inasmuch as you have said that he has not a Leet, he must maintain his plaint.—*Gaynesford*. If he will say in general terms that he has a Leet, without speaking of charters and of a claim [in the Eyre] &c., then, perhaps, it will be a good issue for us to say that he has no Leet; but when he shows the manner in which he has a Leet, and says “so he has a Leet, wherefore, &c.,” that issue gives no proof that he has a Leet, for even though King Henry [III.] granted a Leet to his predecessor, yet if he did not use it, but J. de L. and his ancestors, &c., always did use one, the Abbot has no Leet; wherefore, &c.—*SHARSHULLE*. If King Henry [III.] granted a Leet to the predecessor, &c., and neither he nor his successors held a Leet, but J., &c., did, then the Abbot has not a Leet; and therefore, if that be found which you now allege, it ought to be adjudged that the Abbot has not a Leet.—*Stouford*. Sir, we tell you that J. and his ancestors from all time have had a Leet, &c., in such manner as, &c., without this that the Abbot has a Leet in A.; ready.

Cui in vita,
where the
husband's
heir was
vouched
by the
tenant as
assignee,
and the
tenant was
heir to the
person
enfeoffed
by the

(14.) § *Cui in vita*, on the seisin of the ancestor, in respect of tenements into which the tenant has not entry but by A., to whom B., husband of the demandant's ancestor, leased, &c.—*Blaykeston* vouched C., son and heir of B., being under age, and prayed that the parol might demur.—*Rokele*. He vouches a person other than the person by whom his entry is supposed.—This exception was not allowed, for it is not out of the line to vouch the heir as assignee.—*Rokele* prayed seisin of the land by virtue of the Statute,¹

¹ 13 Edw. I. (Westm. 2), c. 10.

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quei il convynt qil soit respondu a sa plainte; et, de A.D. 1342.
 pus qe vous avez traverse sa plainte, par taunt qe
 vous avez dit qil naid mye lete, il convient qil main-
 teient sa plainte.—*Gayn.* Sil vodra dire en generale
 qil ad lete, sanz parler des chartres et de cleymer, &c.,
 donques par cas serra bon issu a nous a dire qil nad
 nulle lette; mes quant il moustra la manere coment il ad
 lete, et dit issint ad il lete par quei, &c., cest issu ne
 prove mye qil ad lete, qar mesqe le Roy H. granta a
 soun predecessour lete, et il ne le ussa pas, einz J. de
 L. et ces ancestres, &c., tut temps lussurent, unqore
 Labbe nad mye lete; par quei, &c.—*SCHAR.* Si le Roy
 Henre granta let al predecessour, &c., et il ne ses succes-
 sours ne tendrent pas lete, einz J., &c., donques nad mye
 Labbe lete; par quei, si ceo soit trove qe vous distez ore,
 il deit estre ajuge qe Labbe nad mye lete.—*Stouf.* Sire,
 nous vous dioms qe J. et cez ancestres de tout temps
 ount ew lete, &c., auxi com, &c., sanz ceo qe Labbe ad
 lete en A.; prest.

(14.)¹ § *Cui in vitu*, de la seisine launcestre, en *Cui in*
 les queux le tenant nad entre si noun par A., a qi B., *vita*, ou
 baroun launcestre le demandant, lessa, &c.—*Blayk.* leir le
 voucha C. fitz et heir B. deinz age, et pria qe la parole baroun fuit
 demorast.²—*Rokel.* Il vouche altre qe celui par qi le tenant
 soun entre est suppose.—*Non allocatur*, qar ceo nest com as-
 pas hors de la lyne de voucher leir³ come assigne, et le tenant
 pria seisine de terre par statut pur ceo qe le vouche fuit heir
 au feffe par le

¹ From T., 16,560, 25,184, and Harl. (until otherwise stated), but corrected by the record, *Placita de Banco*, Trin., 16 Edw. III., R^o. 1. It there appears that the action was brought by Geoffrey Bernewyne and Elizabeth his wife, against John de Alkeshulle. The entry was alleged to have been by Wil-
 liam de Alkeshulle on the demise

of William Malesel, late husband of Isabel Malesel, aunt of Elizabeth, who was daughter and heir of Agnes, the sister of Isabel. John, son and heir of William Malesel, was the infant vouched. The lands were in Burnham (Bucks).

² 25,184, demurgeast.

³ In 25,184 alone the word leir is inserted after voucher.

No. 14.

A.D. 1342. because the vouchee is heir of the husband.—*Blaykes-*
 husband. *ton*. The words of the Statute are: "*Expectet emptor*
 Yet the " *de warrantia* "; and we are not the person who
 parol de- purchased from the husband, but his heir perhaps;
 murred, &c., because a and if we were under age, we should have our age.
 cause a vouchee —SHARDELOWE. He who is in the second degree is
 under age shall in a different case from him who is in the first degree.
 answer, —*Rokele*. He who vouches is the heir of the person
 because the tenant who was enfeoffed by our husband, so that he shall
 was not have no greater advantage than his ancestor would
 the pur- have had if he had been a party.—*Thorpe*. He is
 chaser. not a purchaser.—SHARDELOWE. Since you do not
 Judg- deny the nonage, or that the voucher ought to stand,
 ment: the parol without
 without day.

*Cui in
 vita.*

§ Geoffrey de Bernewyne and Elizabeth his wife brought a *Cui in vita* against J. de Alkeshille, and demanded against him certain tenements, into which this same J. has not entry but by R., to whom W., heretofore husband of C. the cousin of the aforesaid Elizabeth, whose heir, &c., leased them, whom, &c.—*Dervorthy*. We vouch to warrant H. son and heir of W., who shall be summoned, &c.; and because he is under age, we pray that the parol do demur until his full age.—*Rokele*. Sir, you see plainly how by our writ we suppose J.'s entry to be by R., and he vouches W.'s heir to warrant, and thereby he supposes his entry

No. 14.

est³ heir le baroun.—*Blayk*. Lestatut voet³: "*Expectet* A.D. 1342.
 " *emptor de warrantia*; et nous sumes pas celuy baroun.
 qe purchaceames del baroun, mes soun heir par cas; Uncore la
 et si nous fussoms⁴ deinz age nous⁵ averoms nostre parole de-
 age.—*SCHARD*. Cely en le secunde degree est en mora, &c.,
 altre cas qe cely qest⁶ en le primer degree.—*Rokel*. qar vouche
 Cely qe vouche est leir cely qe fuit feffee par nostre deinz age
 baroun, issint qil navera nynt plus davantage qe soun respondra,
 auncestre averoit sil fuit partie.⁷—*Thorpe*. Il nest quia tenens
 pas emptour.—*SCHARD*. Puis qe vous ne dedites pas non fuit
 le nounage ne qe⁹ le voucher estoise, nous agardoms¹⁰ [Fitz.
 la paroule saunz jour, &c. Age, 47.]

Judicium:
Loquela
sine die.¹¹

§ Goffry¹¹ de Bernewyn et Elizabeth¹² sa feme *Cui in*
 porterent le *Cui in vita* vers J. de Alkeshille, et *vita*.
 demanderent vers ly certeyn tenementz, en lez qux
 mesme cesty J. nad entre si non par R., a qi W.
 jadis baron C. cosyne lavant dit Elizabeth,¹³ qi heir,
 &c., eux lessa, a qi, &c.—*Derr*. Nous vouchoms a
 garrantir H. Fitz et heir W., qe serra somons, &c.; et
 pur ceo qil est dedeynz age nous [prioms qe la] paroule
 demurge tanqe a soun age.—*Rokel*. Sire, vous veiez
 bien coment par nostre bref nous¹⁴ supposoms lentre J.
 estre par R., et il vouche a garrantir leir W., et par
 tant suppose il son entre [par] W. laquele chose est a

¹ The words of the marginal note after *vita* are from 25,184 alone.

² In 25,184 the word *del* is inserted after *est*.

³ The words *lestatut voet* are omitted from 16,560. In 25,184 the word *quod* is inserted after them.

⁴ T., *fusmes*.

⁵ nous is omitted from T.

⁶ qest is omitted from 16,560 and Harl.

⁷ partie is omitted from 16,560 and Harl.

⁸ The word *Judicium* is from Harl. alone, and the words *Loquela sine die* from 16,560 alone.

⁹ qe is from Harl. alone.

¹⁰ The words nous agardoms are from Harl. alone.

¹¹ This report of the case is from L. alone.

¹² MS., J.

¹³ MS., Isabel.

¹⁴ MS., vous.

No. 14.

A.D. 1342. to be by W., which is contrary to our writ, and therefore we do not understand that to such a voucher, &c.—And because the voucher was within the degrees, in which case the Statute does not oust the voucher—but only in cases in which the voucher is out of the degrees¹—the Court was of opinion that the voucher was sufficiently good.—*Rokele*. Sir, you see plainly that this is in a *Cui in vita*, in which the Statute purports that the woman, or her heir, shall not be delayed by nonage when the heir of her husband is vouched; wherefore, since they have vouched the heir of W., who aliened, we pray seisin of the land.—*Pole*. The words of the Statute apply only to cases in which the person who buys the land of the woman's husband vouches, but your writ supposes us to be a person other than the person who bought the land, &c., and therefore we are out of the case of the Statute.—*Rokele*. You are the heir of R., to whom we suppose that W. aliened, and you cannot be in a better condition than that in which your father would be if he were now living; and if he were now living, and vouched W.'s heir as being under age, we should recover immediately.—*SHARSHULLE*. The words of the Statute are: "*Ex-pectet emptor, qui ignorare non debuit*," &c. Now it is possible that the person who is now in tenancy was not *in rerum natura* when his ancestor purchased the land, and therefore it may well enough be understood that he was unaware of the matter.—*SHARDELOWE, ul idem*. Perhaps some persons understand that in a *Cui in vita*, as soon as the first degree is passed, one is out of the case of the Statute.—And because *Rokele* would not say anything else, and the Court was of opinion that the tenant was out of the case of the Statute because he did not enter by the

¹ Compare 3 Edw. I. (Westm. 1), c. 40, with 13 Edw. I. (Westm. 2), c. 40.

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contrare de nostre bref, par quei ne entendoms mye qe A.D. 1342
a tiel voucher, &c.—Et pur ceo qe le voucher fut
deinz lez degreez lestatut ne ouste mye la voucher, mes
quant la voucher est hors de lees degreez, il fut avys al
Court qe le voucher fut assetz boun.—*Rok.* Sire, vous
veiez bien coment ceste *in Cui in vita*, ou lestatut
volt qe la feme ou soun heir ne soit mye delaye par
noun age la ou le heir son baron est vouche; par quei,
de pus qil ount vouche le heir W. qe aliena, nous
prioms seisine de terre.—*Pole.* Lestatut ne parle my
mes en cas ou cesti qe achate la terre de baron la feme
vouche, mes vostre bref nous suppose autre persone
qe cesti qe achate la terre, &c., par quei nous sumes
hors de cas destatut.—*Rok.* Vous estez heir R., a qi
nous supposoms qe W. aliena, et vous ne poyez estre
de meillour condicion qe vostre pere ne serreit sil fut
ore en vie; et sil fut en vie, et voucha le heir W. come
de deynz age, nous dussoms recoverer mayntenant.—
SCHAR. Lestatut voet: "*Quod expectet emptor qui*
" ignorare non debuit," &c. Ore est il possible qe
cesty qest ore en tenance ne fuit pas *in rerum natura*
quant soun ancestre purchacea la terre, par quei il
put assetz bien estre entendu qil fut mesconisant de
la chose, &c.—*SCHAR.* *Ad idem.* Par cas ascunz gentz
entendount qen *Cui in vita*, a plus tost qil passe le primer
degre, qe home est hors de cas destatut.—Et pur ceo
qe *Rok.* ne voleit autre chose dire, et avys fut a la
Court qe le tenant fut hors de cas destatut pur ceo

No. 15.

A.D. 1342. husband, it was adjudged that the parol should demur until the full age of the heir.

Novel
Disseisin
by an in-
fant under
age. And
observe
that the
opinion of
the Court
was that
a father
could dis-
seise his
son under
age by
entering
on his son
without
making
any demise
to another.

(15.) § Assise. The deed of the plaintiff's father with warranty was pleaded in bar for the assignee. And, because the plaintiff was under age, the assise was awarded, and the jurors said that the father of the infant plaintiff, whose heir he is, enfeoffed him at the age of one year and a half, and assigned him a guardian for his land, and a nurse, who took the profits for eleven weeks for the use of the infant, and then the father intruded himself and disseised the infant, and afterwards enfeoffed, by the same deed of which *profert* is made, the person whose estate the tenant has. And this verdict was adjourned out of the country into the Bench.—*Thorpe*. It is found that the infant was seised as of freehold by virtue of his father's feoffment, and that his father assigned guardians to him, and this could only be during his father's pleasure; and even though it be found that his father afterwards ousted them and disseised the infant, on that fact found it cannot be adjudged a disseisin, for the entry of the father, to whom the nurture of his son naturally belongs, can only, according to law, be said to be to the use of the son, because at the son's full age the father shall answer for the issues; and this entry was made during the son's nonage; wherefore, &c.; for the plaintiff is still under age, &c.—SHARSHULLE. You wish to prove that a father cannot disseise his son if the son be under age.—*Thorpe*. He cannot surely by entry upon the son, but by demise he can, as was done in our case, in which case warranty does not bar, because the feoffee is the principal disseisor.—SHARSHULLE. We think that the father could by his

No. 15.

qil nentra¹ mye par le baron, agarde fut qe le paroule A.D. 1342.
demura tanqe al age le heir, &c.

(15.)² § Assise. Le fait le pere le pleintif ove garrantie pur lassigne⁴ fuit plede en barre. Et, pur ceo qil fuit deinz age, lassise fuit⁵ agarde, qe dit qe le pere lenfaunt pleintif, qi heir il est, luy feffa del age dun an et demi, et lassigna un gardeyn de sa terre, et une norice, qe pristrent al oeps lenfaunt les profitz par xj⁶ semayns, et puis le pere sentrusa el disseisi lenfaunt, et puis feffa, par mesme le fait qest mys avant, celui q'estat le tenant ad. Et ceo verdit ajourne en Baunk hors du pais.—*Thorpe*. Trove est qe lenfaunt fuit seisi par le feffement soun pere come de fraunc tement, et qil assigna a luy gardeyns, qe ne puit estre forsqe a sa volunte; et tut soit il trove qil les ousta apres et disseisit lenfaunt, sur ceo fait trove ceo ne puit estre ajuqe disseisine, qar lentre le pere, a qi naturellement appent la nuture de soun fitz, ne puit estre dit par ley forsqe al oeps le fitz, qar a soun pleyn age il respoundra des issues al fitz; ⁷ el cele entre fuit fait duraunt soun noun age; par quei, &c.; qar le pleintif est unquore deinz age, &c.—*SCHAR*. Vous voillez prover qe le pere ne puit disseisier soun fitz sil soit deinz age.—*Thorpe*. Noun surement⁸ nynt par entre sur ly, mes par demyse il puit, come fut⁹ en nostre cas, en quele cas garrantie ne barre pas, pur ceo qe le feffe¹⁰ est principal disseisour.—*SCHAR*. Nous entendoms qe le pere par soun entre puit

Novele Disseisine par an enfant deinz age. Et vide qe intencion de la Court fuit qe le pere puit disseisir son fitz deinz age par entrer sour son fitz saunz altre demise faire.³ [16 Li. Ass. 9: Fitz. Disseisin, 6.]

¹ MS., ne nentra.

² From T., 16,560, 25,184, and Harl., until otherwise stated.

³ The words of the marginal note after Disseisine are from 25,184 alone. In T. the note is simply "Assise."

⁴ The words pur lassigne are from 16,560 and Harl. only.

⁵ fuit is from 25,184 alone.

⁶ T. and 16,560, vj.

⁷ The words al fitz are from 16,560 and Harl. only.

⁸ 16,560, soerment; 25,184, suyerent.

⁹ fut is from 16,560 and Harl. only.

¹⁰ T., feffour.

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A.D. 1342. entry disseise his son while under age, and this is expressly found by the verdict; wherefore what you say is a traverse of the verdict.—*Thorpe*. You will give judgment on the facts which are found, and not on the particular words of the jurors. And if it seems to you in this case that the father could disseise his son, still the Justice ought, for the advantage of the infant, to have enquired of all circumstances which might make the deed void, such as nonage, imprisonment, &c.; and this was not done; wherefore you cannot go to judgment to affirm this deed.—*SHARSHULLE*. Do you wish to delay yourself?—*Thorpe*. Yes, sir, rather than that the deed should be affirmed as good against us.

Assise of
Novel
Disseisin.

§ John Fitz-John brought an Assise of Novel Disseisin against A., B., and C.—A. answered as tenant, and said that J., the plaintiff's father, whose heir, &c., by his charter, of which A. made *profert*, enfeoffed B. of the same tenements to hold to B. and his heirs and assigns, and bound himself and his heirs to warrant the same tenements to B. and his heirs and assigns in case B. should be impleaded, &c., and A. demanded judgment whether, contrary to the deed, there ought to be assise. And, thereupon, he made *profert* of both deeds. And because the plaintiff was under age, and could not acknowledge the deed, the Court took the assise at large in order to enquire as to the truth of the matter.—The Assise said that the plaintiff's father enfeoffed of these same tenements J. his son, who is now plaintiff, and who was then of the age of one year and a half, to have and to hold to him and his heirs for ever, and afterwards appointed one H., and a woman who was the plaintiff's nurse, to be the plaintiff's guardians, and they were seised, as guardians, during eleven weeks. Afterwards the father abated upon the same tenements, and disseised the infant, and

No. 15.

disseisir son¹ fitz deinz age, et cest trove par verdit A.D. 1342. expressement; par quei ceo qe vous parlez est a traverser le verdit.—*Thorpe*. Vous² ajugerez sur³ le fait trove, et noun pas sur lour paroules. Et⁴ sil vous semble en ceo cas qe le pere puit disseisier soun fitz, unquore Justice duist aver enquis,⁵ en avantage lenfaunt, de tutes les circonstances⁶ qe puissent voider le fait, come deinz age, en prisone, &c.; et ceo nest pas fait; par quei vous ne poez aler a jugement daffermer ceo fait.—*SCH*. Voillez delaier⁷ vous mesme? —*Thorpe*. Sire, oil, pluis toust qe le fait soit afferme pur bon countre nous.

§ Johan⁸ Fitz Johan porta un Assise de Novele Disseisine vers A., B., et C.—A. respondit com tenant, et dit qe J. pere le pleintif, qi heir, &c., par sa chartre, quel ele mist avant, enfeffa de mesmes les tenementz

Assise de
Novele
Disseisine.

B. a tener a luy et a ces heirs et a ces assignes, et obligea luy et ces heirs de garrautir mesmes les tenementz a luy et a ces heirs et ces assignez ou sil fut enplede, &c., et demanda jugement si, encontre le fet, assise dust estre. Et sour ceo il myst avant lun fait et lautre. Et pur ceo qe le pleintif fut dedeynz age, et ne put mye conustre le fait, la Court prist lassise a large pur enquere la verite de fait.—Lassise dit qe le pere le pleintif enfeffa de mesmes ceux tenementz J. son fitz, qe ore est pleintif, adonques del age de un an et demy an a aver et tener [a] luy et ces heirs a touz jours, et pus il ordeyna un H., et un feme qe fut sa nuryce, destre ces [gardeyns], lesqux furent seisis, com gardeyns, &c., par xj simaignes. Pus la pere abati en mesmes les tenementz et disseisi lenfante, et

¹ T., le.

² 25,184, Nous.

³ 16,560 and Harl., pur.

⁴ In 25,184 the words *veredictum* *dicit* are inserted after et.

⁵ Harl., conusance.

⁶ T., circumstances.

⁷ Harl., dalier.

⁸ This report of the case is from L. alone.

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A.D. 1342. afterwards executed a recognisance for 10*l.* to the aforesaid C. And the Assise said that, during the whole time after the entry, the father took the profits to his own use, and that the infant did not subsequently enter upon the land; and then afterwards, by the charter of which *profert* was made, the father enfeoffed B. of the aforesaid tenements, and bound himself and his heirs to warranty according to the purport of the charter. Afterwards B. leased the same tenements to A. for term of life; C. afterwards sued execution on the recognisance, and had a moiety of the tenements by *Ellegit*.—On this verdict the parties were adjourned before the Justices of the Bench.—Now, on the Quinzaine of the Trinity, *W. Thorpe* said: Sir, it is found that the father enfeoffed his son, who is now plaintiff, while under age, and re-entered, and this entry can be adjudged only in wardship of the infant, and so with regard to this feoffment which he made to B. as a disseisin of the infant, the warranty is void in law; wherefore, &c.—*Stouford*. It is expressly found by the Assise that the father was not guardian, &c., when he enfeoffed B., for the Assise said that he disseised the infant, and took the profits to his own use, and so it is proved that he was seised as of freehold, and for that reason the deed and the warranty are good in law; wherefore, &c. Besides, it is found that the father appointed other persons guardians of the infant.—*W. Thorpe*. The guardians who were appointed by the father were removable at the father's pleasure, so that during the whole of this time the father must be considered chief guardian to the infant. And as to your proposition that the Assise said that afterwards the father abated on the guardians in the infant's tenements, whereby you wish to maintain that the father was as in a freehold, it has often been seen that an Assise has said that the plaintiff was disseised, and has set

No. 15.

pus fit un conisauns de *x[li]*. a lavant dit C. Et disoint A.D. 1342.
 qe tut temps le pere pus lentrer prist les profitez a
 soun oepes demene, et qe lenfant pus nentra my en
 la terre; et pus apres, par la chartre qil fut mys
 avant, il enfeffa de mesmes les tenementz lavant dit
 B. et obligea luy et ces heirs a la garrantie solon ceo
 qe chartre volt. Pus B. lessa mesmes les tenementz
 a A. a terme de vic; C. pus suist execucion de la
 conisance et avoit la moite lez tenementz par le
eligit.¹—Sour ceo verdist les parties furent ajournez
 devant Justices de Bank.—Ore a la xv de la Trinite,
W. Thorpe: Sire, trove est qe le pere enfeffa son fitz,
 qore est pleintif, dedeinz age, [et] reentra, le quel
 entrer ne put estre ajuge mes en garde lenfant, issint
 cel feffement quel il fist a B. un disseisine a lenfant,
 la garrantie voyde en ley; par quei, &c.—*Stouf*. Il
 est trove expressement par Assise qe le pere ne fut
 mye gardeyn, &c., quant il enfeffa B., qar Lassise ad
 dit qe disseisi lenfant, et prest les profitez a son opps
 demene, issint est prove qil fut seisi com de franc-
 tenement, et pur tant la fet et la garrantie bon en
 ley; par quei, &c. Ovesqe ceo trove est qil ordyna
 lenfant altres gardeyns.—*W. Thorpe*. Les gardeyns qe
 furent ordeynez par le pere furent remuables a sa
 volunte le pere, issint qe tut temps en le pere fut
 ajugge auxi com chief garden a lenfant. Et ceo qe
 vous parlez qe lassise ad dit qe pus sour les gardyenz
 le pere sabati en les tenementz lenfant, et pur tant
 voillez dire qe le pere fut com en franc tenement,
 [homme] ad vewe sovent qe un Assise ad dist qe le
 pleintif fut disseisi, et ils ount moustre le faict et la

¹ Sic in MS.

No. 16.

A.D. 1342. forth the fact and the manner of its accomplishment, and yet the fact has proved to be the reverse of that which the Assise has said, and for that reason the Court has given judgment on the defect which it has pointed out, and has not had regard to the first verdict of the Assise; so in this case it cannot be adjudged in law that by the fact which is found by the Assise the father when he entered had any other estate but as guardian; and though a guardian in such a case takes profits to his own use, the freehold is all the time adjudged to be the infant's, and the guardian shall render an account of the same profits when the infant shall come to his full age; and therefore when the father made a feoffment it was then that the disseisin commenced for the first time, &c.—SHARSHULLE. You mean to say that, in such a case, neither by any claim nor by any entry that the father could make upon the infant who was in his wardship could he transfer the freehold to himself, but that during the whole time the freehold was the infant's, until the father made the feoffment.—*W. Thorpe*. Yes, sir, indeed, that is what we understand.—*R. Thorpe*. Sir, it seems to us in relation to this point that sufficient has been found to enable you to proceed to judgment as to the deed in accordance with what you have said, but you cannot in any way proceed to judgment against the infant on this verdict, because, when a deed is produced in bar against an infant under age, the Court ought to enquire as to all the circumstances of the same deed, viz.: whether the ancestor was of full age, &c.; now, sir, in this case, there has been no enquiry as to the circumstances of the same deed by which, &c.

Fine. (16.) § *Thorpe*, on a writ of Covenant which purported
Note as to "that they perform the covenant" to the husband and
release.
And see his wife in respect of so much land and 20s. of rent, said

No. 16.

manere coment, et le faict ad prove le revers de lour A.D. 1342.
dit, par quei la Court ad rendu jugement sour le default
qils ount moustre, et nount my pris regard a lour
primer verdit; auxi en ceo cas par le fait quel est
trove par assise il ne put mye en ley estre ajugge que
le pere quant il entra avoit aultre estat qe com garden;
et coment qun gardeyn prent profitz en tiel cas a son
oops demene, tut temps le franctenement est ajugge a
lenfant, et le garden de mesmes les profitz, quant
lenfant vendra a son age, rendra acompte; par quei
quant le pere fit feffement donques a comencement
comencea la disseisine, &c.—SCHAR. Vous volez dire
qe, en tiel cas, par nul cleyme ne par nul entrer qe le
pere put scur lenfant qe fut en sa garde ne put doner
franc tenement a pere, eynz tout temps le franc tenement
fut a lenfant tanqe le pere fist feffement.—W. Thorpe.
Oyl, sire, verement, ceo entendoms nous.—R. Thorpe.
Sire, il em semble a nous qe assetz est trove par quei
vous poez alier a jugement pur le faict selon ceo qe
vous avez parle, mes encontre lenfant vous ne poez
en nul manere aler a jugement sour ceo verdist, qar,
quant un fet est mys en¹ barre encontre enfant deynz
age, la Court deit enquere de touz le circumstance de
mesme le fet, saver si launcestre fut de pleyn age, &c.;
ore, sire, en ceo cas rien est enquis de les circonstances
de mesme le fet par quel, &c.

(16.)² § Thorpe, sur un bref de Covenant qe voleit⁴ *Finis.*³
quod teneant conventionem al baroun et a sa femme *Nota de*
de taunt de terre et xxs. de rente, A. conust les *relees. Et*
vide supra

¹ MS., est.² From T., 16,560, and 25,184.³ T., Covenant. The rest of the
marginal note is from 25,184 alone.⁴ T., vest.

No. 17.

A.D. 1342. A. acknowledges the tenements comprised in the writ, except the rent, to be the right of the husband and his wife, and releases the same to them and the heirs of the husband, except the aforesaid rent of 20s.—**SHARSHULLE.** How can he release his right in the demesne, and save to himself the rent?—*Thorpe.* He had the rent before, issuing out of the same land, and the covenant is that the rent shall remain to him and that he shall release his right in the demesne; and one has seen a fine levied on release, saving to him who released common in the same land.—**SHARSHULLE.** I do not know that.

Quid juris clamat, in a case in which seisin of land was adjudged. This agrees with Trinity Term in the 10th year above, on a like writ.³ (17.) § *Quid juris clamat* for John Stonore against John de Cotesmor and his wife, in which issue was previously joined, as appears in Hilary term next preceding. And afterwards John and his wife were essoined, and the essoin was quashed, because it does not lie, and they were distrained to hear the Jury, and on the day given they came before the Justices at *Nisi prius*; and after the Inquest was charged Johan de Cotesmor absented himself; and his wife prayed to be admitted; and she could not be, &c.; but the Inquest, being taken, passed against them; and they were adjourned into the Bench; and on the day given the wife prayed to be admitted.—**SHARSHULLE.** Neither land nor tenement is in demand; wherefore the wife cannot be admitted. Besides, your husband and you appeared at the Inquest and gave your evidences.—And then seisin of the land was awarded.—*Quære* what would have been done had she come before verdict, &c.

¹ Y.B., Hil., 9 Edw. III., No. 14, ff. 6-7.

² Y.B., Mich., 13 Edw. III., No. 44.

³ Y.B., Trin., 10 Edw. III., No. 12, fo. 32.

No. 17.

tenementz contenus en le bref, forspris¹ la rente,² estre le dreit le baroun et sa femme, et ceo relest a eux et as³ heirs le baroun, forpris la rente de xxs. avantdit. —SCHAR. Coment⁴ poet il relessier soun dreit en le demene, et salver a ly la rente?—*Thorpe*. Il avoit la rente devant, issaunt de mesme la terre, et⁵ le covenant est qe la rente ly demorra et qil relessera soun dreit en la demene; et homme ad vieu fyne leve sur relees salvant a celui qe releessa comune en mesme la terre.—SCH. Ceo ne say⁶ jeo pas.

A.D. 1342.

Hil. ix^o, etM. xiiij^o

in [en]

quod fuit

per domi-

num de

Wake.

[Fitz.

Fynes, 4.]

(17.)⁷ § *Quid juris clamat* pur Johan Stonore vers Johan de Cotesmor⁸ et sa femme, ou lissue altrefoitiz fuit joint, *ut patet supra Hilarii proximo*.¹⁰ Et puis Johan et sa femme furent essones, qe fuit quasse *quia non jacet*, et ils furent destreint doier la Jure, a quel jour ils vyndrent devant Justices al *Nisi prius*; et apres lenqueste [charge Johan de Cotesmor¹¹ se absentia; et sa femme pria destre resceu; et non potuit, &c.; mes lenqueste]¹² pris passa countre eux; et sount ajournes en Baunc, a quel jour la femme pria destre resceu.—SCH. Terre ne teneiment nest pas en demande, par quei femme nest pas resceyvable. Ovesqe ceo, vostre baroun et vous apparustes a lenqueste et deistes voz evidences, &c.—Et puis seisine de terre¹³ fuit agarde.—*Quære* si ele ust venu devant verdit, &c.¹⁴

*Quid juris**clamat*, ou

seisine de

terre fuit

agarde.

*Concordat**supra**Trinitatis**x^o, tali**brevi*.⁸

[Fitz.

*Essone,*165; *Res-**ceit*, 101.]¹ T., forsqe.² The words forpris la rente are omitted from 16,560.³ 16,560 and 25,184, les.⁴ Coment is omitted from 16,560.⁵ 16,560, qe.⁶ T., vai; 16,560, veie.⁷ From T., 16,560, 25,184, and Harl.⁸ The words of the marginal note after *clamat*, are from 25,184 alone.⁹ The name is from the record

and 25,184; T., Bodesmore; 16,560, Godesmore; Harl., Godesmere.

¹⁰ See Y.B., Hil., 16 Edw. III., No. 3.¹¹ T., Bodesmore; 16,560 and Harl., Godesmore.¹² The words between brackets are omitted from 25,184.¹³ The words de terre are omitted from T.¹⁴ The last sentence is from 25,184 alone.

Nos. 18-20.

A.D. 1342.

Entry sur disseisin. Note the difference. And this was approved at Westminster.

(18.) § Note that on a writ of Entry *sur disseisin* for an Abbot, on the seisin of his predecessor, when the disseisin was found by the Inquest, the Court enquired as to the right of the Abbot. But on a writ of Entry, on a lease made by the predecessor of an Abbot who was demandant, when the lease was found, the Court awarded seisin without enquiring over as to the right.—*Quære* the difference.

Account. Observe as to a prisoner.

(19.) § Account. The Sheriff returned *Non est inventus*, wherefore a *Capias* issued. And before the writ was returnable the Sheriff had taken the same defendant by process had on a Statute Merchant, and now brought him here into Court by virtue of the *Capias* on this writ of Account, and showed how he was charged with the body, and prayed to be discharged as against the recognisee in the Statute Merchant, to whom he was obliged to answer either for the body or for the debt.—HILLARY. We shall do what is right in this matter.—And he commanded the defendant to be in custody in the Fleet.—*Quære* whether the Sheriff shall have the body when he shall have pleaded.—And afterwards it was entered on the roll how he is delivered by the Sheriff, so that the Sheriff shall have back the body, when, &c.

Formedon, where the person who was vouched, on another

(20.)¹ § *Præcipe* against Joan late wife of Thomas de la Ryvere.—*Thorpe*. We tell you that this same person who now demands heretofore brought a like writ in respect of the same tenements against John

¹ This report of this case occurs in T. alone as of Michaelmas Term, 15 Edw. III., and has been printed as No. 56 of that term. It is reprinted here because it appears in the same form in three MSS. (including T.) as of this term, be-

cause the marginal note appears only as of this term, because the case is assigned to this term by Fitzherbert, and because a different report of the same case (printed below) appears in L. as of this term.

Nos. 18-20.

(18.)¹ § Nota qen bref dentre sur disseisine pur Abbe de la seisine soun² predecessour, quant par enquest trove fuit la desseisine, Court enquist du dreit Labbe. Mes en bref dentre dun lees fait par le predecessour Labbe qe demanda quant trove fuit le lees, Court agarda seisine saunz enquere outre⁴ du dreit.—*Quære diversitatem.* A.D. 1342. Entre sur disseisine. *Nota diversitatem. Et hoc fuit probatum [apud] Westmonasterium.*³

(19.)⁵ § Acompte.⁷ Le Vicounte retourna *quod non est inventus*, par quei *Capias* issit. Et avant le bref retournable le Vicounte avoit pris mesme celuy defendant par proces fait sur statut marchant, et ore le mene cy⁸ en Court par⁹ le *Capias* en ceo bref dacompte, et moustra coment il est charge du corps, et pria de estre descharge vers le reconisse¹⁰ en le statut marchant, a qi il luy covient respondre du corps ou de la dette.—HILL. Nous ferroms bien de ceo.—Et le comaunda en garde de Flete.—*Quære* si le Vicounte reavera le corps quant¹¹ il avera plede.—*Et postea intratur in rotulo qualiter liberatur per Vicecomitem, ita quod rehabebit corpus, quando, &c.* Acompte. *Vide de prisone.*⁶

(20.)¹² § *Præcipe*¹³ vers Johane qe fuit la femme Thomas de la Ryvere.—*Thorpe*. Nous vous dioms qe mesme¹⁴ cely qe ore demande autrefois porta autiel bref de mesmes les tenementz vers Johan le fitz Thomas Fourme-
don, ou
cely qe fuit
vouche, a
un altre

¹ From T., 16,560, 25,184, and Harl.

² The words Entre sur disseisine are from T. alone. *Nota* is from the three other MSS., and the subsequent words of the marginal note from 25,184 alone.

³ 25,184 and Harl., le.

⁴ outre is omitted from T. and 25,184.

⁵ From T., 16,560, 25,184, and Harl.

⁶ The marginal note is omitted

from T. The words after Acompte are from 25,184 alone.

⁷ The word Acompte is from 16,560 and Harl. alone; the words *Nota* qe are substituted for it in 25,184.

⁸ cy is from 16,560 alone.

⁹ 16,560, et.

¹⁰ Harl., la reconnaissance.

¹¹ 25,184, avant qe.

¹² From T., 16,560, and 25,184, until qtherwise stated.

¹³ 16,560, Bref fut porte.

¹⁴ mesme is omitted from T.

No. 20.

A.D. 1342. son of Thomas de la Ryvere, returnable at the Octaves writ, in respect of the same tenements, could not on that account now abate this writ purchased against her. The vouchee answered because she had not entered into warranty, and so she was a stranger to the tenant. of St. Michael in the 10th year of the present King, which John then vouched Thomas, and Joan his wife, against whom this writ is now brought; process on the voucher was continued until Thomas died, whereupon the tenant revouched this same Joan, and that voucher is still pending; judgment of this writ which supposes Joan to be tenant.—*Blaykeston*. The law does not put me to answer that; and, since you do not deny that you are tenant of the freehold, judgment, and we pray seisin.—*SHARDELOWE*. If you were tenant by your warranty, and had warranted to the tenant the same subject of demand, that would be something; but although you be vouched you are a stranger, as appears at present; wherefore, will you say anything else?—*R. Thorpe*. We are privy to the demandant in the plea, for against him we shall be essoined.—*SHARDELOWE*. Answer.

In a *Præcipe quod reddat* the tenant pleaded that the demandant previously brought a like writ to that which he brings now, on which process was continued until the tenant vouched to warrant, and that the process on the voucher is still pending. § W. Bayon's brought his writ against Joan late wife of T. de la Ryvere, and demanded certain tenements against her.—*R. Thorpe*. We tell you that heretofore this same W. brought a writ, like to that which he brings now, against J. son of T. de la Ryvere, and demanded these same tenements against him, on which writ this same J. vouched this same Joan and T. her husband, to warrant. They continued process thereon until T. died, whereupon J. revouched this same Joan, and that process of voucher is still pending. And we tell you that this writ which is now brought against Joan as tenant was purchased while the process of voucher on the other writ was pending, wherefore we demand judgment of this writ which is now brought against Joan as against tenant.—*Blaykeston*. You yourself show that you are altogether a stranger to this

No. 20.

de la Ryvere retournable as oytaves² de Saint Michel lan x^{me} le Roi qor est, quel Johan voucha Thomas et Johane sa femme adonques, vers qi ceo bref est ore³ porte; proces⁴ continue sur le voucher tanqe Thomas morust, par quei le tenant revoucha mesme ceste Johane, quel voucher pent⁵ unquore; jugement de ceo bref qe suppose⁶ Johane estre tenant.—*Blaik*. A ceo ley ne moi mette a respondre; et, del houre qe vous ne dedites pas qe vous nestes tenant du fraunc tenement, jugement, et prioms seisine.—*SCHAR*. Si vous fuissez tenant par vostre garrauntie, et ussez garranti⁷ al tenant de mesme la demande, asqune chose serroit; mes tut soiez vous vouchre vous estes estraunge, a ceo qe semble unquore; par quei voilles altre chose dire?—*R. Thorpe*. Nous sumes prive al demandaunt el plee, qar devers luy serroms essone.—*SCHAR*. Responez.

A.D. 1342.
bref, de
mesmes
ceux tene-
ments, ne
pout mye
ore par
tant abatre
cesty bref
purchace
vers ly.
Le vouchre
respondi
qar il ne
fuit mye
entre en
garrantie,
et issi fuit
il estraunge
al tenant.¹
[Fitz.
Estoppell,
215.]

§⁸ W. Bayous porta son bref vers J. qe fut la feme T. de la Ryvere, et demanda vers luy certeyn tenementz.—*R. Thorpe*. Nous vous dioms qe aultrefoith mesme cesty W. porta atiel bref com il fait ore vers J. fitz T. de la Ryvere, et demanda vers luy mesmes ceux tenementz, a quel bref mesme cesty J. voucha a garrantir mesme cesti J. et T. soun baroun. Proces sour ceo continuerent tanqe T. morust, par qai J. revoucha mesme cesti J. le quel proces de voucher est unquore pendant. Et vous dioms qe cesty bref qest ore porte vers J. com tenant est purchace pendant la proces de voucher en lautre bref, par qai nous demandoms jugement de ceo bref qest ore porte vers Johane com vers tenant.—*Blaik*. Vous mesmes moustres qe a cel recorde qe vous leggez vous estes tout estraunge, par qai ceo

En un
Præcipe
quod
reddat
le tenant
pleda qe le
demandant
porta aul-
tiel br-f
come il
fet a ore,
proces
continue
qe le tenant
voucha a
garrantir,
le quel
proces de
voucher
est uncore
pendant.

¹ The marginal note is from 25, 184 alone. In T. the note is *Præcipe quod reddat*, in 16,560 Fourme de doun.

² 25, 184, ustaves.

³ ore is omitted from T.

⁴ proces is omitted from 16,560.

⁵ 16,560, pendaunt.

⁶ suppose is omitted from 16,560.

⁷ The words et ussez garranti are omitted from T.

⁸ This report of the case is from L. alone.

Nos. 21, 22.

A.D. 1342. record which you allege, wherefore that of which you And she demanded judgment of this writ which was purchased while the other was pending. And as to this it was said that, if the vouchee had entered into warranty by virtue of the first writ, it would have been a good plea, &c., in abatement of the writ, &c.

record which you allege, wherefore that of which you speak cannot have any other effect than as if you were to say that you purchased a writ against a stranger, and that the writ which is now brought against you was purchased while the other writ was pending; and that would not be an answer.—*R. Thorpe*. I am in a better case here, because I am now in the position of a party to you on your first original writ, because, if I had to be essoined, the essoin would be against you as against a party.—*SHARDELOWE*. Have you entered into warranty?—*R. Thorpe*. No, sir.—*SHARDELOWE*. Then what you say need not be answered; because, before you have entered into warranty, you are not a party to the first writ; but if you had been tenant by your warranty, then your plea would be good.

(21.) § *A Præcipe quod reddat* was by a Protection put without day, and the Resummons was returned *tarle*, and an *Alias* Resummons issued returnable now; and, because there was false Latin in the first Resummons, a new Resummons was awarded, and the writ was not abated, because the mistake was through misprision of the Court.

Note as to Essoin. See the Statute of Westminster the Second, c. 29.¹

(22.) § Note that an essoin was adjudged for the plaintiff, in a case of Attaint, after appearance, and by judgment for the reason that the Statute¹ does not specify the contrary in respect of plaintiffs, except in Assises. Westminster the Second.¹

§ In an Attaint, which was brought on a *Præcipe quod reddat* in a plea of land, on the day next following that

¹ 13 Edw. I. (Westm. 2) c. 28.

Nos. 21, 22.

que vous parlez ne put estre dautre effect mes auxi A.D. 1342.
 com vous deissez [qe] vous purchaceastes un bref devers Et de-
 un estrange, et qe le bref qore est porte devers vous mande
 fut purchace pendant lautre bref, le quel ne serreit mye jugement
 respons.—*R. Thorpe*. Jeo suy en meillour cas issi qar de cest
 jeo su ore auxi com partie a vous a vostre primer bref qe fut
 original, car, si jeo deverei estre essone, ceo¹ serreit purchaco
 devers vous com devers partie.—*SCHAB*. Estez vous pendant
 entre en la garrantie?—*R. Thorpe*. Sire, nanyl. Et laltre. Et
SCHAR. Donques ne valt il [estre] respondu ceo qe vous dit qe si le
 parlez, qar avant ceo qe vous soiez entre en la garrantie vouche ut
 vous nestez mye partie al primer bref, mes si vous entre en la
 fussez tenant par vostre garrantie, donques serreit vostre garrantie
 ple bon. par vertue
 de primere
 bref qe
 ceo ust
 este bon
 ple, &c.,
 en abate
 ment de
 bref, &c.

(21.)² § *Præcipe*⁴ *quod reddut* par proteccion fuit
 mys saunz jour, et⁵ la resomons retourne *tarde*,⁶ et
Sicut alias issit retournable a ore; et, pur ceo qil y
 avoit faux latyn en la primer resomons, novel resomons
 fuit agarde, et noun pas bref abatu, *quia in defectu Curie*.
 Nota de
 Resomons.³

(22.)⁷ § *Nota* qe essone fuit ajuge pur le pleyntif, *Nota*
 en cas datteynte, apres apparaunce, et par agard, *quia* dessone.
*statutum non specificat*⁹ *contra petentes*¹⁰ *nisi in* *Vide Stat.*
assis. Westmestre Secunde. W. ij. ca.
 xxi.⁸
 [16 Li.

§ En¹¹ un atteint qe fut porte sour un *Præcipe quod*
reddut en plee de terre, a prochein jour apres ceo qe
 Ass., 10;
 Fitz.
Essone,
 164.]

¹ MS., jeo.² From T., 16,560, and 25,184, but compare the two reports of No. 30 below.³ The marginal note is from 25,184 alone. In T. the note is *Præcipe quod reddat*, in 16,560 *Nota* only.⁴ In 25,184 the words *Nota* qui are inserted before *Præcipe*.⁵ 16,560, de.⁶ *tarde* is omitted from 25,184.⁷ From T., 16,560, and 25,184 until otherwise stated.⁸ *Sic*. The marginal note is from 25,184 alone.⁹ 25,184, *specificans*.¹⁰ T., *petentem*.¹¹ This report is from L. alone. Much though it differs from the report as found in the other MSS. it seems to relate to the same case, as there is no other case of essoin in Attaint in any of the MSS. of this Term.

Nos. 23, 24.

A.D. 1342. on which the tenant had pleaded to the Jury, the tenant caused himself to be essoined, and because the Statute¹ purports that in Assise, *Jurata Utrum*, and Attaint, the tenant shall have no essoin after he has appeared in Court, the essoin was quashed.

Note. (23.) § Note that on a writ of Covenant brought against two persons in common it was adjudged that they might fourch by essoin. And so likewise it is on a writ of Debt.

*Scire
facias on
Quare
impedit.*

(24.) § *R. Thorpe*. We have tendered the averment that the church was not void while the temporalities were in the King's hand, and that proves what we say—that the King had no right to recover; wherefore we demand judgment whether he ought to have execution, because we understand that we ought to have the same advantage in this case as in a *Scire facias* sued against a tenant of a freehold on a recovery given against another person, in which case it would be sufficient, in order to prevent execution and annul the recovery, to say that the person against whom the recovery was had was not tenant of the freehold.—*W. Thorpe*. It would not be so, if the person himself against whom the *Scire facias* were sued did not say that the person against whom the recovery was had was

See the
beginning
in Michael-
mas term
in the 14th
year.

¹ 3 Edw. I. (Westm.) c. 42. See Coke's exposition of both Statutes.

Nos. 23, 24.

le tenant avoit plede a la Jure, la tenant se fist A.D. 1342. eissoner, et pur ceo qe lestatut volt qe en assise, jure de *utrum*, [et] attaintez qe la tenant avera nul essone apres ceo qil ad apparu en Court, lassone fut quasse.

(23.)¹ § *Nota* qe en bref de Covenant porte vers *Nota*.² deux en comune fuit agarde qils purroint³ fourcher par essone. *Et simile est in brevi de Debito*.⁴

(24.)⁵ § *R. Thorpe*. Nous avoms tendu daverer qe *Scire facias*:⁶ leglise ne fuit pas⁸ voide esteaunt les temporales en la mayn le Roi, quelle chose prove ceo qe⁹ nous dioms *Quare impedit*.⁷ qe le Roi navoit pas dreit a recoverir; par quei¹⁰ nous demandoms jugement si execucion deive avoir, qar nous entendoms daver mesme lavantage icy come en un *Scire facias* quel fut suy vers tenant du franktenement dun recoverer taille vers autre persone, en quel cas, pur destourber execucion et anienter le recoverer, il suffreit a dire qe celui vers qi le recoverer¹¹ se fist ne fut pas tenant del franktenement.—*W. Thorpe*.¹² Noun *Vide principium in termino*¹³ serroit, si cely mesme vers qi le *Scire facias* serroit suy *Mickaelis* ne deit pas qe¹⁵ cely vers qi le recoverir¹⁶ se fist ne fuit *xiiij*.¹⁴

¹ From T., 16,560, and 25,184.

² The marginal note is from 16,560 alone.

³ 16,560, purrount; the word is omitted from 25,184.

⁴ The words *in brevi de Debito* are omitted from 25,184.

⁵ This report is a continuation of Y.B., Mich. 14, Ed. III., No. 77, q.v. It is from 16,560 and Harl. until otherwise stated.

⁶ *Scire facias* is from Harl. alone.

⁷ *Quare impedit* is from 16,560 alone.

⁸ pas is omitted from Harl.

⁹ MSS. si, instead of ceo qe.

¹⁰ quei is from 16,560 alone.

¹¹ Harl., coverer.

¹² Hence to the end the report is from the four MSS., T., 16,560, 25,184, and Harl.

¹³ 25,184, *supra*, instead of *in termino*.

¹⁴ 25,184, xiiij. The note is omitted from 16,560 and Harl.

¹⁵ The passage si cely mesme vers qi le *Scire facias* serroit suy ne deit pas qe is in that form in 16,560 and Harl. In T. and 25,184 it is si ne die [25,184, deit] qil mesme vers qi le *Scire facias* serroit suy qe [25,184, et].

¹⁶ 25,184, debitor.

No. 24.

A.D. 1342. not tenant, but that he himself or some other whose
Scire estate he has was so; but now this Bishop who pleads
facias had nothing in the patronage at the time at which the
upon a judgment for the recovery was had, nor had any one else except the King
King in himself, so that the judgment could not be to the damage
Quare im- of the Bishop when it was given, as it would be in the
pedit. And other case which you have put. And I say, as to his
note that the defendant in statement that the recovery was void if the church was
this *Scire* not then vacant, that he does not show that the church
facias traversed the was at that time full of any other parson; wherefore the
King's title averment is not admissible. Besides, it is inconvenient
taken in to traverse the action on the principal matter in the
the original writ, *Scire facias*, for he will have only a plea *ex post facto*;
and issue was taken thereupon. and also we have pleaded that John Colby, against
But note whom the King recovered his presentation, was then
that this in possession of the church, so that according to his
could not plea the church became vacant, although he had been
be done in parson previously; wherefore it seems that he shall not
a *Præcipe* be admitted to aver that the church was not then
quod red- vacant.—*R. Thorpe.* It is not a fact that by anything
dat, &c. done in this Court the church, which is a spiritual thing,
Therefore could become vacant; and as to that which you say that
Quere the we have not shown that the church was then full of any
the difference in respect of this other parson, plenarty is not to be tried in this Court,
matter. nor could it make an issue in this plea whether full of
such a parson or not; but the issue would be whether it
was vacant or not; for plenarty cannot be alleged
against the King; and if what we say be true, the
King's recovery was on a nullity. And suppose that
the King had now a writ to the Bishop, it would be
necessary that his clerk should be admitted by us, and
that the other should be ousted, who perchance, at the

No. 24.

pas tenant, mes il mesme ou asqun altre qi estat il ad; mes ore cesty Evesqe qe plede navoit rien en le patronage al temps qe le recoverir se fist, ne nul altre [forsqe le Roi mesme,² issi qe le jugement ne poet estre a damage del Evesqe quant il fuit rendu com serroit en lautre]³ cas qe vous avez mys. Et jeo die, quant a ceo⁴ qil parle qe le recoverir fuit voide si leglise adonques nust este⁵ voide, il ne moustre pas qe leglise fuit pleyne de nul altre a tiel temps; par quei laverement nest pas resceyvable. Ovesqe ceo, cest inconvenient de traverser laccion sur le principal en le *Scire facias*, qar il navera forsqe plee *ex post facto*; et auxi nous avoms plede qe Johan Colby, vers qi le Roi recoveri soun presentement, fuit possessour adonques del eglise, issi qe par soun plee leglise se voida tut ust il este persone devant; par quei daverer qe leglise adonques ne fuit pas voide il semble qil⁶ ne serra pas resceu.—*R. Thorpe.* Ceo nest nient qe par chose fait en ceste Court qe leglise qest espirituel⁷ se purroit voider⁸; et a ceo qe vous parles qe nous navoms pas moustre qe leglise adonques⁹ fuit pleyne de¹⁰ nul altre, plenerte nest pas a trier en ceste¹¹ Court, ne ne¹² purreit faire issue en ceo plee pleyne dun tiel ou noun; mes lissu serroit le quel ele fuit voide ou noun; qar plenerte devers¹³ le Roi nest pas alleggeable; et sil soit verite ceo qe nous dioms le recoverir le Roi fuit sur un nient. Et jeo pose qe le Roi ust ore bref al Evesqe, il covendreit qe soun clerk fuit resceu par nous, et lautre

A.D. 1342.
Scire facias hors dun jugement pur le Roi en *Quare impedit. Et nota* qe le defendant en cest *Scire facias* traversa le tittle le Roi pris en bref original, et sur cel issue fut pris. *Sed nota quod sic non potuit fieri in Præcipe quod red-dat, &c. Ideo quare diversitatem de hoc.*¹

¹ The whole of this note (except the words *Scire facias*, which appear in Harl.) is from 25,184 alone.

² mesme is omitted from Harl.

³ The words between brackets are omitted from 16,560.

⁴ 25,184, ceo plee, instead of ceo qil parle.

⁵ T., ne fuit, instead of nust este.

⁶ The words *semble qil* are omitted from 16,560.

⁷ 25,184, espiritel; Harl., espiritele.

⁸ T., avoider.

⁹ adonques is omitted from 16,560 and Harl.

¹⁰ 16,560, ne.

¹¹ 16,560 and Harl., hors de, instead of en ceste.

¹² The second ne is omitted from Harl.

¹³ 25,184, vers.

No. 24.

A.D. 1342. time of the vacancy of the Bishopric, and before, and afterwards, was and still is parson, and we should never be able to oust him.—*W. Thorpe*. That would be an excuse for you upon a *Quare non admisit*, but not in this case; and, moreover, this particular fact is not alleged.—*R. Thorpe*. Certainly not, because if we now permit execution, accepting the judgment to be good, we shall never have a traverse to a *Quare non admisit*.—*SHARDELOWE*. In execution upon a fine a man will not be admitted to say that neither the person who rendered nor either of the parties to the fine had anything, unless he say that he himself or some other whose estate he has was seised; and, moreover, the issue will not by law be taken if it be counterpleaded, although it may have been once admitted on the seisin of some person other than those who were parties. Also I say, in this case, although the plenarty alleged of another parson at that time could not make an issue, you ought to state it by way of evidence.—And afterwards [*W.*] *Thorpe*, for the King, accepted the averment *gratis*, and prayed a *Nisi prius*, because an essoin does not lie.—*STONORE*. For what purpose? We can not amerce the jurors even if they do not come.—Afterwards in Michaelmas Term the Inquest passed for the King. And the King had execution, and the Bishop was in Mercy because he counterpleaded, &c.

No. 24.

ouste, quel par cas au temps de la voidaunce del A.D. 1342.
 Evesqe,¹ et devant, et puis, et unquore est persone, et
 nous le² purroms jammes ouster.—*W. Thorpe*. Ceo³
 serroit excusement pur vous a un *Quare*⁴ non admisit,
 mes noun pas icy; et unquore tiel fait nest⁵ pas⁶
 allegge.⁷—*R. Thorpe*. Nanyl certes, qar si⁸ nous
 soeffroms ore lexecucion, acceptaunt le jugement bon,
 nous naveroms jammes le travers a un⁹ *Quare non*
admisit.—*SHARD*. En execucion¹⁰ hors dune fyne
 homme ne serra pas resceu a dire qe celui qe rendist
 ou qe¹¹ ne¹² lun ne lautre qe furent parties a la fyne
 navoient rien,¹³ saunz dire qil mesme ou asqun altre qi
 estat il ad fuit seisi;¹⁴ et unquore lissue se fra pas
 par ley sil soit countreplede, tut fuit ceo un foitz resceu
 sur la seisine dautre qe de ces qe furent parties. Auxi
 die jeo, en ceo cas, tut [ne purroit la plenerte allegge
 en altre persone a tiel temps¹⁵ faire issue, pur evidence¹⁶
 vous le duissez dire.—Et puis]¹⁷ *Thorpe*, pur le Roi,
 resceut¹⁸ laverement *gratis*, et pria *Nisi prius, quia*
essonium non jacet.—*STON*. A quel effect? Nous ne
 poms pas amercier les jurours mesqils ne veignent
 pas.—[*Postea Termino Michaelis*, lenqueste passa pur
 le Roi. Et le Roi ad execucion, et Levesqe en la
 mercy, *quia contraplicitavit, &c.*]¹⁹

¹ T., eglise.² 16,560 and Harl., no.³ Harl., Ore.⁴ *Quare* is omitted from 25,184.⁵ Harl., est.⁶ Harl., a.⁷ Harl., allegger.⁸ 25,184 and Harl., qar alone; T. and 16,560, si alone, instead of qar si.⁹ The words a un are omitted from 16,560 and Harl.¹⁰ The words en execucion are omitted from 25,184.¹¹ qe is omitted from 16,560 and Harl.¹² ne is omitted from 25,184.¹³ The words navoient rien are omitted from 16,560.¹⁴ In 25,184 are here inserted the words *Contrarium adjudicatur infra Michaelis xvij in Scire fucias*.¹⁵ 25,184, cas.¹⁶ The words pur evidence are omitted from 16,560.¹⁷ The words between brackets are omitted from Harl.¹⁸ T., prist.¹⁹ The words between brackets are omitted from 16,560 and Harl.

No. 25.

A.D. 1342.
Account,
in a case
in which
the defend-
ant was
in the
Fleet, and
said him-
self that
he was
outlawed.

(25.) § On a writ of Account the Sheriff returned *Non est inventus*. The plaintiff alleged that the defendant was in custody in the Fleet, and prayed that he might be made to come; and he came and the plaintiff counted against him.—*Gaynesford*. The defendant is outlawed; wherefore if you see that the law obliges him to answer, we are ready to answer.—*SHARDELOWE*. It does not lie in his mouth to say that he himself is outlawed, and especially at the suit of another.—*Gaynesford*. He has not a day either by the writ or by roll; wherefore he shall not be put to answer.—*Blaykeston*. Suppose he were in Court and were willing to answer, he would answer, although without any other process than that which is now made; and it is not right that process should be awarded against a person who is in custody when you are apprised of the fact, for thus you would outlaw him.—*HILLARY*. He has now come into Court against his will; and if a *Capias* now issues, at another day you can attain your purpose, for then a day is given by roll and process warranted.—*R. Thorpe*. It is inconvenient to make process against a person who is in custody by your command.

Account. § William Power was outlawed on a writ of Account, at the suit of one A., and afterwards taken by virtue of a *Capias utlagatum*, and committed to custody

No. 25.

(25.)¹ § En bref dacompte le Vicounte retourna *Non est inventus*. Le pleintif alleggea qe le defendant² fuit en garde de Flete, et pria qil fuit fait venir; et il vynt, et le pleintif counta vers luy.—*Gayn*. Le defendant est utlage, par quei si vous veiez qe la ley luy mette a respondre, prest sumes a respondre.⁴—*SCHARD*. Ceo ne gist pas en sa bouche a dire qil mesme est utlage, et nomement a⁵ altri suite.—*Gayn*. Il nad pas jour par bref ne roule; par quei il serra pas mys de respondre.—*Blaik*. Jeo pose qil fuit en Court et voleit respondre, tut saunz altre proces qe ore nest fait il respoundereit; et il nest pas resoun qe proces soit agarde vers celuy⁶ qest en garde la ou vous estes de ceo appris, qar issi lutlageriez vous.—*HILL*. Il est venuz en court a ore maugre le soen; et si *Capias*⁷ ist ore, a un altre jour⁸ vous poez aver vostre purpos, qar donques par roule⁹ jour est done et proces garranti.—*R. Thorpe*. Inconveniens est a faire proces¹⁰ vers cely qest en garde par voz comandements.

A.D. 1342.

Acompte, ou le defendant fuit en Flete, et dist qil fuit mesme utlage.³

§ William¹¹ Pouwere fut utlage en un bref dacompte a la suyte un A., et pus pris par le *Capias utlagatum*, et

Acompte.

¹ From T., 16,560, and 25,184, until otherwise stated.

² All the words of the marginal note after Acompte are from 25,184 alone.

³ 16,560, Vicounte.

⁴ The words prest sumes a respondre are omitted from 25,184.

⁵ 25,184, en.

⁶ T., qi.

⁷ 16,560, *Cape*.

⁸ jour is omitted from 16,560.

⁹ The words par roule are omitted from 25,184.

¹⁰ 25,184, ceo proces.

¹¹ This report of the case is from L. alone. The mention of the defendant's name, and the issue joined, would appear to identify the case

with that found among the *Placita de Banco*, Trinity, 16 Edw. III., R^o. 198. The plaintiffs were Margery late wife of Geoffrey de Winchcombe, citizen and armourer of London, William le Peutriere, and William Randfey, executors of the will of William de Winchcombe, and the defendant was William le Pouere, son of Walter le Pouere. The points touching the outlawry do not appear in the record, but *Profert* was made of a deed showing a receipt of £30, to which *Non est factum* was pleaded. On this issue was joined, but judgment was afterwards given for the defendant on a *retrahit*.

No. 25.

A.D. 1342. in the Fleet. Against this same W. one Alice had a writ of Account returned now at the Quinzaine, to which the Sheriff had returned that W. had nothing.—*Blaykeston* came to the bar, and showed to the Court how W. was in the Fleet, as above, and prayed that they would command the Warden of the Fleet to cause him to come, so that Alice might be able to count against him.—SHARDELOWE. You have shown that he is outlawed, in which case the King shall have all his chattels; wherefore, &c.—*Blaykeston*. You ought not to have regard to that, since the suit is between party and party. Besides, we tell you that he has a charter of pardon, as we understand.—And on the morrow the Justices consulted together, and commanded the Warden to cause him to come.—And when he was come *Blaykeston* counted against him, for Alice, that he was receiver, &c.—*Gaynesford*. Sir, you have it there by record before you that W. is outlawed; wherefore, Sir, since he is outlawed . . .—And upon this the Court was minded to have put W. to answer.—*Gaynesford*. Sir, W. has not a day by writ or by roll; wherefore he ought not to answer.—And the Justices looked at the writ, and found that it was a Summons, to which the Sheriff had returned that the defendant had nothing.—SHARDELOWE. W. has not a day by writ or by roll; wherefore, if he were out of custody, he would not be put to answer, if he did not wish to do so *gratis*. And since he is in our custody it seems that he ought not rightly to be put to answer by the Court.—*R. Thorpe*. If he ought not to be put to answer, then you ought to award the *Capias* against him, which would be by way of error, since you are apprised that he is the same person that is in custody.—SHARDELOWE. We will consider of this matter.—And, on the morrow, they put W. to answer, because they could not award the Grand *Capias* against him for

No. 25.

commande en garde de Flete. Vers mesme cesty W. A.D. 1342. cy avoit un Alice un bref dacompte retourne ore a la xv., a quel bref le Vicounte avoit retourne qe W. navoit rien.—*Bleik.* vynt a la barre et moustra a la Court coment W. fut en Flete *ut supra*, et pria qils voillent commander al Gardein de Flete de luy faire venir, issint qe Alice put contere vers luy.—*SCHAR.* Vous avez mcustre qil est utlage, en quel cas le Roy avera toux ces chateux; par quei, &c.—*Bleik.* Vous ne devez mye aver regarde a cella, de pus qe la suyte est entre partie et partie. Ovesqe cella, nous vous dioms qil ad chartre de pardoun, auxi com nous entendoms.—Et lendemayn ils souent avise ensemble et commanderent a la Gardein del faire venir.—Et quant il fit venuz *Bleik.* conta vers luy, pur Alice, qil fut reseyvour, &c.—*Gayn.* Sire, vous avez la par recorde devant vous qe W. est utlage; par quei, Sire, de pus qil est utlage¹ . . .—Et sour ceo la Court fut en oppinion pur aver mys W. de respoudre.—*Gayn.* Sire, W. nad jour par bref ne par rulle; par quei il ne deit respoudre.—Et les Justices regarderent le bref et troverent qil fut somons, a qi le Vicounte avoit retourne qil navoit rien.—*SCHAR.* W. nad mye jour par bref ne par rulle, par quei, [s]il fut hors de garde, il ne serreit my mys de respoudre sil ne voilt de gree. Et de pus qil est en nostre garde il semble qil ne doit mye par resoun estre mys de respoudre par la Court.—*R. Thorpe.* Sil ne deit estre mys de respoudre, donques coveynt il qe vous agardes devers luy le *Capias*, laquel serra en vey de² erreur, de pus qe vous estes apsis qil est mesme cesty qest en garde.—*SCHAR.* Nous voloms sour ceo [aviser].—Et lendemayn il mistrerent W. a respoudre, pur ceo qil ne peont mye agarder la grant

¹ The MS. appears to be defective here.

² MS., et.

No. 26.

A.D. 1342. the cause aforesaid.—And because Alice, in proof of the count, made *profert* of W.'s deed, he said *Non est factum*; ready, &c.—And the other side said the contrary.—*Gaynesford*. Now we pray mainprise for W.—SHARDELOWE. We find, by record, that W. is outlawed; wherefore, until he has his charter of pardon, we shall not grant any mainprise.

Cogni-
sance
made on
behalf of
a bailiff
for him-
self and
another
person
named in
the writ,
&c. So
note the
cognisance
made on
behalf of
another
person.

(26.) § Cognisance made on behalf of a bailiff, for himself and another named in the writ, for Eleanor late wife of Guy Ferre, for rent service in arrear, to wit 11s. 7d. And the cognisance was made on a stranger, to wit John atte Grove, as on a very tenant.—And he came and joined himself with the plaintiff.—And the plaintiff acknowledged that he held of the person who joined himself by such a service; and he who joined himself did the like.—And they said, by *Gaynesford*, that this John atte Grove held of one John Maleville in service by such a service. From John Maleville the descent was to John as son, who endowed his mother Katharine, wife of John his

No. 26.

Cupias vers luy *causa prædicta*.—Et pur ceo qe Alice, A.D. 1342. en prove de lacompte, mist avant la fet W. il dit nent son fet; prest, &c.—*Et alii e contra*.—*Gayn*. Ore prioms meynprise pur W.—SCHAR. Nous trovoms par recorde qe W. est utlage; par quei avant ce qe eit sa chartre nous ne grantoms nul maynprise.

(26.)¹ § Conissaunce fait pur baillif, pur luy et un altre nome en le bref, pur Elianore qe fuit la femme Guy Ferre,³ pur rente service arere, saver xjs. vijd.⁴ Et la conissaunce fait⁵ sur estraunge, saver Johan atte Grove, come sur verray tenant, qe vynt et se joint al pleintif.—Et le pleintif conust qil tynt de celuy qe se joigna⁶ par autiel service; et celuy qe se joint auxi.—Et disoient par *Gayn*.⁷ qe celuy Johan⁸ atte Grove tient dun Johan Maleville en service par autiel service. De Johan Maleville descendi a Johan com a fitz, qe dowa sa mere Katerine,

Conisaunce
fait pur
luy meisme,
et auxi
pur un
autre nome
en bref,
come
baillif, &c.
Sic nota
conisaunce
fait pur
altre.⁹

¹ From T., 16,560, 25,184, and Harl. (until otherwise stated), but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R. 125, where it appears that the action was brought by Thomas le Parker, of Crowhurst, against John de Pyreton and John Pollard. John de Pyreton made cognisance, for himself and John Pollard, as baillif of Eleanor late wife of Guy Ferre, knight, on the ground that John atte Grove held certain tenements of her by fealty and the service of 11s. 7d. per annum, that she was seised of the service by the hands of John atte Grove as of her very tenant, and that the 11s. 7d. were in arrear.

The plea was "quod ipse tenet tenementa prædicta . . . de quodam Johanne atte Grove per fidelitatem et servitium decem

"solidorum per annum, qui quidem Johannes, præsens hic in Curia, dicit quod idem Thomas tenet de eo tenementa illa per fidelitatem et servitium decem solidorum et decem denariorum per annum, et se jungit prædicto Thomæ tenenti ad respondendum, &c."

Several continuances *prece partium* follow, but nothing more.

² The words of the marginal note after the first "conisaunce" are from 25,184 alone. In T. the note is Conisaunce de baillif, in 16,560 Conisaunce en prise des avers.

³ T., Frere.

⁴ The MSS. of Y. B., xs. xd.

⁵ fait is omitted from Harl.

⁶ T., joyua; 25,184, yoyua.

⁷ The words par *Gayn*. are omitted from 25,184.

⁸ Johan is omitted from Harl.

No. 26.

A.D. 1342. father, of the third part of the rent, to wit 3s. 7d., in satisfaction, &c., which Katharine granted her estate to W., to whom John Grove attorned; and W. granted his estate to one G., who had attornment, &c.: G. granted his estate to Eleanor, in whose name the cognisance is now made. And we tell you that Katharine was dead a year before the day of the taking; judgment, inasmuch as the estate of Eleanor in the rent was determined by the death of Katharine, whether he can maintain this cognisance. And as to the residue of the rent we say Never seised.—*Blaykeston*. You see plainly how as to parcel of the rent he has pleaded as our tenant by traversing our seisin, which only lies in the mouth of a privy, and as to that, ready, &c., to aver our seisin. And as to the residue he pleads as a stranger, to do which he can not be admitted; wherefore judgment.—*W. Thorpe*. As to that which we say that she was not seised of any thing more, it is only a protestation that we do not admit that she was seised of more than appertains to dower, but the rest of our plea estranges her entirely, so that she shall not have the rent after the death of Katharine; and even if Katharine were alive, and she had usurped the whole, when she ought to have only the third part, on that matter I should discharge myself.—*SHARDELOWE*. That is true: but we must know how you plead; for if your plea amounts to this, that you do not hold of her, then it is a disclaimer; and if you will admit that you hold of her, but by a less service, that is a different

No. 26.

femme [Johan soun pere, de la terce partie de la rente, A.D. 1342. saver iijs. vijd. en allowaunce, &c., la quele Katerine]¹ graunta soun estat a un W., a qi Johan Grove attourna²; et il graunta a un G. soun estat qe avoit³ attournement &c.; G. graunta soun estat a Elianore en qi noun la conisaunce est ore fait. Et vous dioms qe Katerine fuit mort un an avant le jour de la prise; jugement, desicome lestat Elianore fuit determine en la rente par la mort Katerine, si⁴ ceste conisaunce puisse meyntener. Et quant al remenant de la rente, unqes seisi.—*Blayk*. Vous veez bien coment quant a parcelle de la rente il ad plede come nostre tenant en traversant nostre⁵ seisine, qe ne gist forsque en bouche de prive, et quant a ceo prest, &c., nostre seisine. Et quant al remenant il plede come estraunge, a quei il ne puit estre resceu; par quei⁶ jugement.—*W. Thorpe*. Ceo qe nous parloms qe ele ne fuit pas seisi de nient pluis, cest forsque protestacion qe nous ne conissons pas qe ele fuit seisi de pluis qe nappent al dowere, mes le remenant de nostre plee lestraunge tut de nette,⁷ qele⁸ navera pas la rente apres la mort Katerine; et mesqe Katerine fuit en vie et ele ust⁹ accroche lentier, la ou ele ne duist aver forsque la terce partie, sur tielo matere¹⁰ jeo moy deschargera.—*SCHARD*. Cest verite: mes il covient saver coment vous pledez; qar si vostre respons amounte ataunt qe vous ne tenez pas de luy, donques est ceo un¹¹ desclamance, et si vous voillez conustre qe vous tenez de luy mes¹² par meyndre

¹ The words between brackets are omitted from Harl., the word *et* being substituted.

² 25,184, *granta*.

³ Harl., *par* instead of *qe avoit*.

⁴ Harl., *en*.

⁵ 16560, *vostre*.

⁶ The words *par quei* are omitted from T. and 25,184.

⁷ 25,184, *nient*.

⁸ Harl., *dit qil*, instead of *tut de nette qele*.

⁹ 16,560 and Harl., *est*.

¹⁰ T. and 25,184, *manere*.

¹¹ 25,184, *en*.

¹² *mes* is omitted from T. and 25,184.

No. 26.

A.D. 1342. answer.—And then *Gaynesford* said: We take for plea only that Katharine, for whose life Eleanor held, is dead, and we demand judgment as above. And you see plainly how the bailiff has made cognisance for himself and another, whereas no one can make cognisance for another; wherefore we pray our damages against the other who has said nothing.—And then *Blaykeston* said: We have made cognisance as on our very tenant, and to that they do not answer, but they speak beyond that of extinguishing a rent seek for which we have not made cognisance, and so they have answered nothing to our cognisance; judgment.—*W. Thorpe*. It has been seen in an avowry made on a tenant that the plaintiff on whom the avowry was made has said that his services were assigned and given in tail to the ancestor of the avowant, and that, because that ancestor died without heir of his body, the services had reverted to the donor, and has put the avowant to answer to that: so in this case here, &c.—*HILLARY*. In that case it was no wonder, for he pleaded as to the whole of the rent as rent service; not so here.—*Thorpe*. The law is the same for a parcel as for the whole; for in the opinion of some people, that which a woman takes in dower as a third part of services, is rent service, for she shall have a third part of wardship and escheat; and some say the reverse; and therefore it would be an obscure thing to throw on the Inquest—whether it is out of her fee or not; and so we plead it in law.—*Pole*. It is quite certain, when a third part of services is assigned to a woman in dower, even though it be a

Observe, in this plea, that when the person upon whom avowry was made was joined with the plaintiff, then the two gave one answer in common.

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service cest altre respouns.—Et puis *Gayn*. Nous A.D. 1342.
 pernoms¹ pur² plee soulement qe Katerine, a qi vie
 Elianore tient, est mort, et demandoms jugement *ut*
supra. Et vous veiez bien³ coment le baillif ad conu
 pur luy⁴ mesme et un altre, ou nul homme poet conustre
 pur autre; par quei devers l'autre qe rien nad dit nous
 prioms noz damages.—Et puis *Blayk*. [dit qe nous
 avoms conu com sur nostre verrai tenant, a quei il ne
 responnet pas, mes parlent outre desteyndre]⁵ uue sek
 rente pur quele nous navoms pas conu, issint nount
 ils rien respondu a nostre conisance; jugement.—*W.*
Thorpe. Homme ad view qen avowerie⁷ fait sur
 tenant que le pleintif sur qi lavowerie fuit fait ad dit
 qe ses services furent assignes et dones en la taille a
 launcestre lavowaunt, [et, pur ceo qil morust saunz heir
 de soun corps, les services furent revertiez al donour, et
 mist lavowaunt]⁸ a ceo respondre: auxi en ceo⁹ cas
 ycy, &c.—*HILL*. La ne fuit pas merveille, [qar il
 pleda al¹⁰ lentier de la rente, come¹¹ rente service; *non*
sic hic.—*Thorpe*. Mesme la ley de parcele]¹² come de
 tut; qar a lentente de asqun gent ceo qe femme prent
 en dower en terce partie des services ceo est rente
 service, qar ele avera terce partie de garde et eschete;
 et asquns dient le revers; et pur ceo il serroit obscure
 chose del jetter¹³ en enqueste le quel ceo fuit hors de
 soun fee ou noun, et pur ceo le pledoms en ley.¹³—
Pole. Il est tut certeyn, quant la tercie partie des
 services est assigne a femme en dower, coment qe ceo

*Vide in isto placito, quant cely sur qi lavowerie fuit fait fuit joynt al pleintif, qe adonques les deus donerent respouns en comune, &c.*⁵

¹ pernoms is omitted from 16,560.

² pur is omitted from Harl.

³ bien is omitted from 16,560.

⁴ The words pur luy are omitted from 25,154.

⁵ The words between brackets are omitted from Harl.

⁶ This marginal note is from 25,184 alone.

⁷ The words qen avowerie are omitted from Harl.

⁸ The words between brackets are omitted from 25,184.

⁹ ceo is omitted from Harl.

¹⁰ T., en.

¹¹ T., et come.

¹² T., getter; Harl., jetier.

¹³ In T. the report ends here.

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A.D. 1342. rent seck with regard to the woman, that the rent is nevertheless rent service by right, for she must avow in respect of the estate of her husband, and within the fee of the heir, if she is to make a good avowry; wherefore, since we have shown that, during the life of the woman whose estate she had, she might have avowed as for rent service, which estate is determined by the woman's death, and this they have not denied, judgment; and we pray our damages.—See more below, Michaelmas Term in the 42nd year.

Taking of
cattle.

§ Thomas le Parker complained that J. Ballard and J. de P. tortiously took his cattle in the vill of C., &c. —J. and J. came by attorney.—*Derworthy*. You have here J. de P., who makes cognisance of this taking as good (and that for himself and for J.), as bailiff of Eleanor late wife of Guy Ferre, upon J. atte Grove, as upon the very tenant of this same Eleanor, for the reason that this same person held of this Eleanor so much land in C. (whereof the place, &c.) by fealty and by the services of 11s. 6d. per annum, of which services Eleanor was seised through the hand of this same J. atte Grove as through the hand of very tenant; and because the same rent was in arrear for one whole year before the day of the taking, he acknowledges this taking as good, &c.—*Gaynesford*. T. tells you that he holds these same tenements of this same J. atte Grove, upon whom, &c., by fealty and by the services of 10s. 10d. per annum; and J. is here and he tells you so likewise. Therefore J. joins himself to T. his tenant, and they tell you that this J., upon whom, &c., at one time held the same tenements of one A. by fealty and by the services of 10s. 10d. per annum, and was his tenant in service. A. died, and therefore the same services descended to B. as to son, &c., which B. assigned a third part of the same rent to K. late wife of

No. 26.

soit sek rente¹ quant a la feme, unqore est la rente A.D. 1342.
rente², service en droit,³ qar il la covient avower del estat
son baroun, et deinz le fee leir, si⁴ ele fra bone avowere;
par quei, quant nous avoms moustre qe, vivant la femme
qi estat ele avoit,⁵ ele purreit aver avowe come pur rente
service, et quel estat est termine par sa mort, et ceo
nount il pas dedit, jugement; et prioms nos damages.
—*Vide infra plus. Mi. xliij.*⁶

§ Thomas⁷ la Parker se pleignit qe J. Ballard et J. de Prise des
Avers.
P. a tort pristerent ces avers en la ville de C., &c.—
J. et J. vindrent par attourne.—*Derr.* Vous avez cy
J. de P. qe conust ceste prise bone, et ceo pur luy et pur
J., cum baillif Elienore qe fut la feme Gy Ferry, sour
un J. atte Grove, com sour le verey tenant mesme celui
E., par la resoun qe mesme cesty tint de cele E. tant de
terre en C., dont le lieu, &c., par fealte et par les
services de xjs. et vjd. par an, des quex services E. fut
seisi par mye la mayn mesme J. com par my la
mayn verey tenant; et pur ceo qe mesme la rent par
un an enter fut arrere avant la jour de la prise si
conust il la prise bone, &c.—*Gayn.* T. vous dit qil
tient mesmes ceux tenementz de mesme cesty J., sour
qi, &c., par fealte et par les services de xs. xd. par an;
et J. est cy, qe vous dit en mesme la manere. Par
quei J. se joynt a T. soun tenant, et ils vous dient qe
cesti J., sour qi, &c., sy tient en ascun temps mesmes
tenementz dun A. par fealte et par les services [de]
xs. et xd. par an, et fut son tenant en service. A. morrust,
par quei mesmes les services descendirent a B. com a
fitz, &c., lequel B. assigne iij^e partie⁸ de mesme la rent

¹ rente is omitted from 16,560 and Harl.

² The second rente is omitted from 25,184 and Harl.

³ The words en droit are omitted from 25,184.

⁴ 16,560 et si.

⁵ The words ele avoit are omitted from 16,560 and Harl.

⁶ The last sentence is from 25,184 alone.

⁷ This report of the case is from L. alone.

⁸ MS., mt, instead of iij^e partie.

No. 26.

A.D. 1342. this same A., that is to say, 3s. 3d., as in name of dower, by force of which assignment this same J., upon whom, &c., attorned to this same K. in respect of the 3s. &c. And afterwards this same K. granted her estate in the same rent to L., by reason whereof J. attorned to L. for payment, &c. L. afterwards granted the same rent to S. and to his heirs for term of the life of K., whereupon J. attorned, &c. S. died seised of such estate, and after his death H., son and heir of this same S., granted the same rent for term of the life of K. to the aforesaid Eleanor, in whose name, &c., and J. attorned to this same Eleanor for the aforesaid 3s. 6d. And we tell you that the aforesaid K. died one year before the taking, and that by her death the rent was extinguished in the person of Eleanor; and we demand judgment whether for a rent so extinguished, &c., you can maintain this cognisance in the name of Eleanor. And, as to the residue of the rent, Eleanor was not seised thereof, and had not anything afterwards except the 3s., &c. And, as to J. Ballard, since this is a taking of cattle, in which case no one can make cognisance for anyone but himself, and so J. Ballard has answered nothing as to this plea, we therefore demand judgment against him as without defence, &c.—*Blaykeston*. In every case of a taking of cattle it is necessary that one plead to the avowry or to the cognisance which is made, &c., either as privy or as stranger. Now the plea which T. and J. have pleaded, as to the three shillings, &c., is a plea that the tenements are out of our fee, which plea lies properly in the mouth of a stranger; and when they come afterwards and say, as to the residue of the rent, that Eleanor was not seised, they plead as privies and suppose that the tenements are within Eleanor's fee, because it does not lie in the mouth of anyone but one who is tenant to traverse the seisin of services; wherefore we do not understand that they shall be admitted to such a plea.

No. 26.

a K. qe fut la feme mesme cesti A. iijs. et iij^d.¹ auxi A.D. 1342.
 com en non de douwere, par force de quel assignement
 mesme cesti J., sour [qi], &c., attourna a mesme cesti K.
 de les iijs. &c. Et pus apres mesme cele K. granta son
 estat de mesme la rente a L., par quei J. attourna a L.
 par payment, &c. L. pus granta mesme la rente a S.
 et a ces heirs pur terme de la vie K., sour quei J.
 sattourna, &c. S. de tiel estat morust seisi, apres qi
 mort² H., fitz et heir mesme cesti S., mesme la rente
 pur terme de la vie K. granta a la avant dite E., en qi
 noun, &c., et J. attourna a mesme cele E. pur payement
 des avant dits iijs. et vjd.¹ Et vous dioms qe lavant
 dit K., un an avant le jour de la prise, morust, par qi
 mort la rente fut esteynt en le persone E.; et
 demandoms jugement si pur la rente issint esteynt, &c.,
 cest conisance en le noum E. puissetz meyntener. Et,
 qant al remenant de la rent, E. ne fut pas seisi,
 navoit nul pus forsque la iijs., &c. Et, qant a J.
 Ballard, de pus qe cest un prise des avers, ou nul
 home purra faire conisance pur autre qe pur ly mesme,
 issint nad J. B. a cest ple rien respondu, par quei
 nous demandoms jugement de luy com de non defendu,
 &c.—*Bleik*. En chesqun prise des avers il covyent qe
 homme plede al avowere ou a conisance qest fait, &c.,
 ou cum prive ou cum estrange. Ore le plee qel T. et J.
 ount plede quant a les iij^{sol}., &c., si plede qe les
 tenementz sont hors de nostre fee, le quel ple propre-
 ment gist en bouche destrange; et qant ils veignent
 apres et dient qe qant a remenant de la rente E. ne
 fut seisi, le pledent ils com prive et supposent qe les
 tenementz sont deynz la fee E., qar a traverser la
 seisine des services ne gist [en] nully bouche si noun
 en le bouche celuy qest tenant; par quei nentendoms
 mye qe autiel ple.

¹ So in the MS.² MS., de mesme la apres qe,
 instead of apres qi mort.

No. 27.

A.D. 1342. (27.) § Heretofore, between the demandant and the
Dower. tenant, they were at issue on the death and the life of
Note. the husband, and now the woman brought her proofs,
and proved his death by two witnesses, of whom one
was under age. Nevertheless he took the oath.—And
the tenant caused himself to be essoined. And because
the appearance of his attorney was recorded, the essoin
was quashed, and seisin of the land was adjudged.

No. 27.

(27.)¹ § Autrefoitz entre le demandaunt et le tenant ³ A.D. 1342.
ils furent a issue sur la mort et la vie le baroun, et Dower.²
ore la femme mena ses proves⁴ et prova sa mort par ^{Nota.}
deux proves⁶ dount lun fuit⁷ deinz age.⁸ *Tamen*
juravit.—Et le tenant se fist essoner. Et pur ceo qe
lappaunce soun attourne fuit recorde, lessone fuit
quasse et seisine de terre agarde.⁹

¹ From T., 16,560, 25,184 (where, however, it appears only in the margin), and Harl. (until otherwise stated), but corrected by the record of the Easter Term immediately preceding, viz., *Placita de Banco*, R^o. 284. It there appears that the action was brought by Edith late wife of William Oky against Henry son of Roger Oky (who was admitted to defend his right on the default of Robert de Herlyngtone and Emma his wife) in respect of a third part of one messuage in Coventry (Warwickshire). Henry vouched Roger Oky of Coventry, who entered into warranty.

² 16,560, Avowere.

³ The words et le tenant are omitted from 25,184.

⁴ 16,560, profs.

⁵ 25,184, et.

⁶ T., proefs.

⁷ 16,560 and Harl., est.

⁸ The words deinz age are omitted from 25,184.

⁹ According to the record, with which the report from L. (immediately following) is more in agreement, the vouchee "dicit quod prædicta Editha dotem inde habere non debet quia dicit quod prædictus Willelmus, ex cujus dotatione, &c., superstes est, commorans apud Karliolum in Comitatu Cumbrie, et hoc

" paratus [est] verificare ubi et quando, &c.

" Et Editha dicit quod ab actione sua prædicta præcludi non debet, eo quod prædictus Willelmus obiit in exercitu domini Regis apud Andewarp in Brabannia, tribus annis jam elapsis, &c., et hoc parata est verificare ubi et quando, &c.

" Et super hoc dies datus est eis hic a die Sanctæ Trinitatis in xv dies. Et tunc prædicta Editha doceat de morte, &c., et prædictus Rogerus de vita, &c.

" Ad quem diem veniunt tam prædicta Editha quam prædictus Henricus per Johannem de Solihulle attorney suum. Et prædicta Editha producit hic duos testes, videlicet Rogerum le Hunte de Gippewyc de Comitatu Suffolciæ et Robertum Hervy de Comitatu Cestrie, qui quidem Rogerus unus prædictorum testium separatim juratus et examinatus dicit quod prædictus Willelmus Oky quondam vir ipsius Edithæ obiit apud Gippewycum in Comitatu Suffolciæ die Veneris proxima post Festum Sancti Botulphi anno regni domini Regis nunc duodecimo, et sepultus est in cimiterio Sancti Laurentii ejusdem villæ ex parte australi ecclesiæ versus partem occidentalem, et quod ipse præ-

No. 27.

A.D. 1342. § On a writ of Dower, brought against R. Oky, R.
Dower. alleged that the husband of the wife, on whose endowment, &c., was living, and stated where.—Edith, the wife, said that he was dead, and stated where he died. It was therefore said by the Court to both parties that they should bring their proofs now, at the Quinzaine of Trinity, and that the party who most proved should most have, because in a case in which it is alleged by the tenant that the person on whose seisin the demand is made is living, and his death is alleged, on the other hand, by the demandant, the tenant shall say where living, and the demandant where he died, and in that case naturally the matter shall be tried by proofs.—And now, at the Quinzaine, the woman came, and showed to the Court a certificate sealed with the seal of the Mayor and Commonalty of Bristol, at which place the woman had alleged that her husband died, whereby the Mayor, &c., testified the death of her husband.—And the Court would not accept that for proof, because in such a case the matter must be proved by mouth of man.—And on the morrow the woman brought two men for proofs. And they were sworn, and examined severally as to the death, &c.—It was alleged that one was under age.—*Pole*. There is no question of his losing land; wherefore, &c.—And the two witnesses agreed that the husband was dead.—The tenant was called, when it was said that his attorney was essoined; and because the attorney had been seen in Court, the essoin was withdrawn, and the tenant answered by attorney.—He was asked whether he had any proofs.—He prayed a day until

No. 27.

§ En¹ un bref de douwere, porte devers R. Oky, R. **A.D. 1342.**
 aleggea qe la baron la feme de qi douwement, &c., fut **Douwere.**
 en pleine vie, et alleggea ou.—E., la feme, dit qil fut
 mort, et alleggea ou mort; par quei dit fut par la
 Court a lun partie et lautre qil amenessent lour
 proves ore, a la xv de la Trinite, et cely qe muelz
 prouvereit muelz avereit, pur ceo qe en cas quant la vie
 cesti de qi seisine home demande est allegge par la
 tenant, et la mort, dautre party, est allegge par le
 demandant, le tenant dirra ou en vie, et le demandant
 dirra ou mort, et la naturelment la chose serra trie
 par proves.—Et ore a la xv la feme vynt, et moustra
 a la Court un certyfificacioun enseale de seale la Mere
 et le comunalte de Brestut, la ou la feme avoit allegge
 son baron mort, par la quel la Meire, &c., temoignerent
 la mort son baron.—Et la Court ne voleit mye prendre
 cele la pur prove, qar il coveynt en tiel cas qe la chose
 soit prove² par bouche de home.—Et lendemayn la feme
 amena ij hommes pur proves, le quex furent sermentez,
 [et] severalment examine sour la mort, &c.—Allegge
 fut qe lun fut deynz age.—*Pole.* Il nest mye a perdre
 terre; par quei, &c.—Et les ij proves se accorderent qe le
 baron fut mort.—Le tenant fut demande, ou dit fut qe
 soun attourne fut essone; et pur ceo qe son attourne fut
 vew en Court lassone fut terte, et le tenant respondi
 par attourne.—Demande fut de luy sil navoit nul proves.

" sens interfuit et vidit. Et simi-
 " liter prædictus Robertus Hervy
 " alius testium separatim juratus
 " et examinatus dicit quod ipse
 " præsens fuit et vidit, et in omni-
 " bus concordat cum prædicto
 " Rogero le Hunte conteste, &c.
 " Et super hoc attornatus præ-
 " dicti Henrici, quæsitus si aliquos
 " testes produxit ad docendum de

" vita prædicti Willelmi Oky, dicit
 " quod non.
 " Ideo consideratum est quod
 " prædicta Editha recuperet inde
 " seisinam suam versus prædictum
 " Henricum, &c. Et idem Henri-
 " cus in misericordia, &c."

¹ This report of the case is from
 L. alone.

² MS., *trove*.

No. 28.

A.D. 1342. the morrow.—And because he had not any proofs, and the woman had proved her husband's death, it was adjudged that the woman should recover her seisin. —*Quære*, if the tenant had now made default on this day, whether the Court ought to have proceeded to the examination of the proofs in his absence, and to have adjudged seisin of the land by reason of the death proved, or ought to have awarded the *Petit Caps*.

Scire facias in a case in which the record came into the Court of Common Pleas out of the Treasury.

(28.) § *Scire facias* upon an Annuity recovered, in the time of the other King, for the Abbot of Valmont against the parson of a church, on the ground of a recovery against his predecessor by the Abbot's predecessor in the time of the other King.—And exception was taken that the record came into this Court without warrant, because it came immediately from the Treasury into this Court, whereas it should first be sent into the Chancery, and then into this Court.—To this it was answered that the writ which went to the Treasurer and Chamberlains of the Exchequer purported that they should send the record into this Court, and therefore it has come by sufficient warrant.—And afterwards exception was taken to the *Scire*

No. 28.

—Il pria jour tange a lendemayn.—Et pur ceo qil A.D. 1342.
navoit nul proves, &c., et la feme avoit prove la mort
soun baron, fut agarde qe la feme recovereit sa seisine.
—*Quære*, si le tenant ust fait defaute ore a cest jour,
si la Court deit aver ale al examenement de proves en
sa absence, et aver agarde seisine de terre par la mort
prove, ou qils dussent aver agarde le Petit Cape.

(28.)¹ § *Scire facias* hors dune annuite³ recoveri, *Scire*
en temps lautre Roi, pur Labbe de Mont Vaillaunt vers *facias* ou
une persone dun eglise dun recoverir vers soun pre- le record
decessour [par le predecessour Labbe]⁴ en temps lautre vynt ceinz
Roi.—Et fuit challenge qe lo record vynt ceinz saunz hors de la
garrant, qar ceo vynt immediate de la Tresorie ceinz, Tresorie.²
ou il serroit primes maunde en la Chauncellerie et puis [Fitz.
ceinz.—A quei fuit respondu⁵ qe le bref qe alast⁶ al⁷ Recorder,
Tresorer et Chaumberleins voleit qils maundassent 33.]
ceinz le record; par quei il est venuz assez par gar-
raunt.—Et puis fuit le *Scire facias* challenge de ceo

¹ From T., 16,560, 25,184, and Harl. (until otherwise stated), but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R. 236. It there appears that the original action of Annuity was brought by the Abbot of Valmont against Walter, parson of the church of Stratfeld Say (Strathfieldsaye, Hants) in the seventh year of the reign of Edward II., and that the Abbot in the eighth year had judgment in his favour. The *Scire facias* here reported was sued against John de Assheton, Walter's successor, arrears being due for the years 14 and 15 Edward III. Similarly also, *Scire facias* was sued in the 36th year against John Saumon, the successor of John de Assheton, arrears being due for the

years 34 and 35 Edward III. The original action of Annuity is reported in the old edition of Y. B. (Hil., 7 Edw. II. fo. 221), but the report has been printed apparently from one MS. only, without reference to the record, and is consequently very unsatisfactory. The proceedings are recited in the record above mentioned.

² The marginal note, except the words *Scire facias*, is from 25,184 alone.

³ T., *aunciene demene*.

⁴ The words between brackets are omitted from 25,184.

⁵ Harl., *rescieu*.

⁶ 25,184, *aleit*.

⁷ 16,560 and Harl., *a les*, instead of *alast al*.

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A.D. 1342. *facias*, for that the judgment which is the warrant for this *Scire facias* was given in the third year, as appears by the record, and by this writ it is supposed that he recovered in the seventh year.—*W. Thorpe*. One can have a *Scire facias* and a *Fieri facias* in respect of an annuity together; and if after the recovery one brings a *Scire facias*, even though ten years afterwards, and has execution upon that recovery, he can again have a *Scire facias*.—*SHARSHULLE*. Certainly every *Scire facias* must be warranted by the judgment on the principal matter, and if it vary it is not good.—And afterwards the Abbot sued another tenor of the record out of the Treasury.

*Scire
facias.*

§ The Abbot of Valmont sued a *Scire facias* against the parson of Strathfieldsaye upon a judgment which was given for his predecessor, in the time of the other King, upon a writ of Annuity against one A., heretofore parson of Strathfieldsaye, predecessor of the parson against whom, &c., to show wherefore he should not have execution of certain arrears of this same annuity, which had become due since the judgment, &c. And his writ supposed that his predecessor recovered this annuity, and that the recovery was in the seventh year of King Edward the father.—*R. Thorpe*. Oyer! What record?—The record was read, and it purported that the Abbot, in the time of the other King, the father, &c., brought his writ of Annuity against A., &c., and demanded this annuity against him, and counted that the Abbot and his predecessors, from time whereof memory, &c., had been seised of this annuity to be taken through the hands of those who were parsons of the church of Strathfieldsaye, until a certain time before the purchase of his writ, &c.; and he showed no other lay contract, &c. Thereupon A. then came, and said that he found his church discharged of the annuity, and that

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que le jugement qest garrant a ceo *Scire facias* fuit A.D. 1342.
 rendu lan terce, come piert par le record, et par ceo
 bref est suppose qil recoveri lan vij.—*W. Thorpe*. Dun
 annuite homme puit aver *Scire fucias* et *Fieri facias*¹
 tut a une foitz; et si homme apres le recoverir porte
Scire facias, x. aunz apres, et ad execucion hors de cel,
 il puit aver altrefoitz *Scire fucias*.—*SCHAR*. Certes
 chesqun *Scire facias* covient estre garraunti del juge-
 ment sur le principal, et sil soit variaunt il nest pas
 bon.—Et puis il suist altre tenour del record hors de
 la Tresorie.

[*Fitz.*
Variauns,
 59.]

§ Labbe² de Vaumont suwe un *Scire facias* vers la
 persone de Starfeld³ Haye³ hors dun jugement que fut
 rendu pur soun predecessour en temps lautre Roy en
 un bref dannuyte vers un A. jadis persone de Stratfeld,
 predecessour la persone vers qi, &c., a moustrier pur
 quei il naverait execucion de certeyn arrerages de
 mesime cele annuyte, que furent encoruz pus le juge-
 ment, &c. Et soun bref supposa qil recoveri cel
 annuyte, et com lan seme le Roy E. le pere.—*R. Thorpe*.
 Oy! Quei recorde?—Le recorde fut leu, que voleit
 que Labbe en temps lautre Roy pierre, &c., porta son
 bref dannuyte vers A., &c., et demanda vers luy cele
 annuyte, et conta que luy et ces predecessours, de temps
 dount memore, &c., avoient este seisis de cel annuyte
 a prendre par mye les maynz ceux que furent persones
 de leglise de Stratfeld, tanque a certeyn temps devant
 son bref purchase, &c.; et moustra nul autre luy
 contract, &c.; ou A. donques vynt, et dit qil trova
 sa eglise descharge de lannuyte, et en la poynt

¹ The words et *Scire fucias* are
 omitted from Harl.

² This report of the case is from
 L. alone.

³ Sic in MS.

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A.D. 1312. as to the point charged, &c., he could not answer without the Ordinary and patron, and he prayed aid of them, &c.—The Ordinary and patron were summoned, and did not appear.—Therefore A. answered alone, and said that, since the Abbot had shown no lay contract in virtue of which this Court could have cognisance, he demanded judgment, &c.—Therefore the Abbot made *profert* of the deed of B., predecessor of this same A., which was executed before time of memory, by which deed B., in virtue of an assignment of the Ordinary and of the patron, &c., had charged this church for himself and for his successors to the Abbot and his successors, &c. And he made *profert* of a deed to prove the assent, &c.—A. traversed, to the effect that the Abbot and his predecessors were not seised, &c., according to that which, &c. And it was found that they were seised, &c., as alleged.—Therefore judgment was given that the Abbot should recover this annuity, &c. And this judgment was given in the eighth year of King Edward the father.—*Thorpe*. This is an old recovery of the time of the other King, which now comes from the Treasury, and therefore, Sir, we pray oyer of the warrant by which this record came into this Court.—*SHARSHULL*. We find here that this record was sent out of the Treasury, in the third year of the King, by writing to Sir William de Herle: and therefore, since Sir William delivered it as a record to the other Justices who came after him, and they, who are ourselves, have it conjointly, we must hold it to be a record against you, because we cannot pass judgment on his warrant in virtue of which he held it to be a record.—*R. Thorpe*. Sir, you can do so, because, if it was sent to Sir William without warrant, then it was not a record, and you ought not to hold it to be a record.—*Herlastone*. It was sent out of the Treasury to Sir William and his fellows, &c., by *Mittimus*, and it is to be observed that the whole roll of pleas of that

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charge, &c., sanz Lordiner et patron, &c., et pria eide, &c. A.D. 1342.
 —Lordiner, &c., furent sumons qe ne vinderent pas; par
 quei A. respondi soul, et dit, de pus qe Labbe avoit
 mustre nul lay contract de quei ceste Court put aver
 conisanz, il demanda jugement, &c.; par quei Labbe
 mist avant le fait un B., qe fut predecessour mesme cesti
 A., qe fut fait avant temps de memore, par quel fet
 B., par assignement del Ordiner et del patron, &c., avoit
 charge cel eglise par luy et pur cez successours al
 Abbe et ces successours, &c. Et mist avant fet de
 prover lassent, &c.—A. traversa qe Labbe et ces prede-
 cessours ne furent pas seisi, &c., solom ceo, &c. Et
 trove fut pus qils furent seisiej, &c., auxi com [&c.].—
 Par quei fut agarde qe Labbe recovereit cele annuyte,
 &c.¹ Et cel jugement fut rendu lan utisme le Roy. E. le
 pere.—*Thorpe*. Ceo est un auncien recoverir de temps
 lautre Roy, qe vynt ore de Tresore, par quei, Sire, nous
 prioms oy del garrant par quel cest recorde vynt ceynz.
 —SCHAR. Nous trovoms cy qe cest recorde fut maunde
 hors de la Tresore, lan tercie le Roy, par escript a Sire
 William de Herle; par quei, de pus qe Sire William le
 livra com recorde as aultrez justices qe venderent apies
 luy, et eux avoms il ensemble, nous vous devons tener
 com recorde, qar nous ne poms mye ajuger son garrant
 par quel il le tient com recorde.—*R. Thorpe*. Sire,
 si poez, qar, sil fut maunde a Sire William sanz
 garrant, donques ne fut il mye recorde, ne vous ne le
 devez tener com recorde.—*Herlastone*. Il fuit maunde
 hors de la Tresorie a Sire William et ces compaignouns,
 &c., par le *Mittimus*, et fait a saver qe tout la roule

¹ This statement of the proceed-
 ings on the original writ of Annuity
 is fairly correct, as far as it goes,

but it omits much that appears in
 the record.

No. 28.

A.D. 1342. term in which the judgment, &c., was sent out of the Treasury to Sir William—*Thorpe*. We pray oyer of the *Mittimus* by which the record was sent to Sir William, &c.—The writ was read; and, whereas the word ought to have been *Stratfeldeshaye*, it was written *Stratforthehay*; and therefore *R. Thorpe* argued that by reason of the variance, &c., this writ could not be a warrant to the Court to hold that which had been sent to be a record; wherefore, &c.—*SHARSHULLE*. This is a *Scire facias* on which you can say anything that may be within your knowledge, and that lies in law, in abatement of the writ, and every other exception shall be saved to you; wherefore if you have anything else to say, say it. And, on the other hand, before we award any execution, we will see very plainly that we have warrant to do so.—*R. Thorpe*. Saving to ourselves that which we have alleged, we tell you in addition that the *Scire facias* which the Abbot brings against us here now supposes that the recovery, &c., was in the seventh year, &c., whereas the record which has been read to us proves this recovery, &c., to have been in the eighth year, and so this writ is not warranted by the record; wherefore, &c.—*W. Thorpe*. It is possible that in the same year in which our writ supposes the recovery to have been, &c., the Abbot sued a *Scire facias* on a previous judgment, and had judgment in his favour, and that this *Scire facias* has issued upon the latter judgment; and if we can find any other record in this Court by which our writ is warranted, then is our writ good — *SHARSHULLE*. When a judgment is given on a writ of Annuity that the plaintiff do recover the annuity, even though he sue twenty writs of *Scire facias*, and have judgment for himself upon each, yet each of them must be warranted by the first record, and so must each *Scire facias* afterwards. Even though the Abbot had judgment for himself upon a *Scire facias* which

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des ples de cele terme ou le jugement, &c., fut maunde A.D. 1342, hors de la Tresorie a Sire William.—*Thorpe*. Nous prioms oy de *Mittimus* par quel le recorde fut maunde a Sire W., &c.—Le bref fut leu ; et, la ou il dust aver este Stratfeldeshaye, il fuit Stratforthehaye ; par quei *R. Thorpe* moustra qe pur la variaunce, &c., cel bref ne put mye estre garrant a la Court pur tener ceo qe fut maunde pur recorde ; par quei, &c.—*SCHAR*. Ceste un *Scire facias* ou vous poiez dire quanqe vous saveretz qe chet en lay en abatement de bref, et tut vous serra sauve ; par quei si vous eiez autre chose a dire, dites le. Et dautre parte, avant ceo qe nous agarderoms nul exe cution, nous voloms veiere mult bien qe nous eioms garrant a ceo faire.—*R. Thorpe*. Sauve a nous ceo qe nous avoms allegge, nous vous dioms, ovesqe ceo la, qe le *Scire facias* qe Labbe porte vers nous a ore issi suppose qil recoveri cele annuyte, &c., lan seme, &c., ou recorde quel est lieu a nous prove cele recoverir, &c., lan utisme ; issint ceo bref nyent garranti de recorde ; par quei, &c.—*W. Thorpe*. Il est possible qen mesme lan en quel nostre bref suppose le recoverir, &c., Labbe suwe un *Scire facias* hors del primer jugement, et avoit jugement pur luy, hors de quel jugement ceste *Scire facias* est issue ; et si nous possoms trover aultre recorde ceynz, de quei nostre bref est garranti, donqes est nostre bref boun.—*SCHAR*. Quant un jugement est rendu en bref dannuyte qe le pleintif recovere lannuyte, mesquil suwe xx *Scire facias*, et en chescun eiet jugement pur luy, unqore covient qe chescun deux soit garranti del primer recorde, et issint chescun *Scire facias* apres. Mes qe Labbe avoit jugement pur luy en un *Scire facias*

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A.D. 1342. was taken upon the original judgment, the judgment on this *Scire facias* could not be a warrant for this writ which is brought.

Assise of
Novel
Disseisin
for hus-
band and
wife,
where the
other
party
pleaded
against
them in
bar.

(29.) § John de Godesfelde brought two assises of Novel Disseisin, one for himself and Emma his wife, and the other for himself alone, against John Beauflour and others. And as to one assise, he made his plaint for two shops for himself and his wife, &c. ; and as to the other, for four messuages and eighteen acres of land, &c. —*R. Thorpe*. As to the two shops there ought not to be an assise, because Adam atte Lee gave the tenements to James Beauflour and Emma his wife and John Beauflour, against whom the assise is now brought, to hold to them and to the heirs of John. After the death of James, Emma took to husband John de Godesfelde, who is now plaintiff, which John and Emma aliened in fee, to the disherison of John Beauflour, to one Etheldreda de Hildresham and William younger brother of John Beauflour, whereupon John Beauflour entered ; judgment whether an assise, &c. And as to the other writ,

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qe fut pris hors del primer jugement, le jugement, en le A.D. 1342.
Scire facias ne put nyent estre garrant a cest bref qest
 porte.

(29.)¹ § Johan de Godesfelde³ porta ij assises de
 novele disseisine, lune pur luy et Emme.⁴ sa femme, et
 lautre pur lui soul, vers Johan Beauflour et altres. Et
 quant a lun assise fist sa plainte de ij schoppes pur ly et
 sa femme,⁵ &c.; et quant a lautre de iiij⁶ mies xvij⁷
 acres de terre, &c.—*R. Thorpe*. Quant a les ij schoppes
 assise ne deit estre, qar Adam atte Lee⁸ dona les tene-
 mentz a James Beauflour et Emme sa femme et Johan
 Beauflour vers qi lassise est ore⁹ porte, a eux et a les
 heirs Johan. Apres la mort James, Emme prist baroun
 Johan de Godesfelde, qe ore se pleint, quel Johan et
 Emme alierent¹⁰ en fee, a sa¹¹ desheritaunce, &c., a
 une Etheldrede de Hildresham¹² et William frere puisne
 Johan Beauflour,¹³ [sur quei Johan Beauflour]¹⁴ entra;
 jugement si assise, &c. Et quant al autre bref il ny ad

Assise de
 Novele
 Disseisine
 pur le
 baroun et
 sa feme, ou
 lautre lour
 pleda en
 barre.²
 [16 Li.
 Ass.,
 11 and 12.]

¹ From T., 16,560, 25,184, and Harl., but corrected by the two several records of the two several assises, *Placita de Banco*, Trinity 16 Edw. III., R^o. 126 and R^o. 126d. It there appears that the one assise was brought by John de Godesfelde and Emma his wife against John Beauflour and several others, in respect of two shops in Stepney, and that the other was brought by John de Godesfelde alone against the same parties in respect of four messuages and 18 acres of land also in Stepney.

² The words of the marginal note after disseisine are from 25,184 alone. In Harl. the note is Assise Beauflour.

³ T., Godfelde.

⁴ All the MSS. of Y. B. except 16,560, M.

⁵ The words pur ly et sa femme are from 25,184 alone.

⁶ Harl., iiij.

⁷ T. and 25,184, xvj; Harl., xij.

⁸ The MSS. of Y. B., W., instead of Adam atte Lee.

⁹ ore is from T. alone.

¹⁰ T., and 16,560, Johan aliena instead of Johan et Emme alierent.

¹¹ 16,560 and 25,184, la.

¹² The MSS. of Y. B., G., instead of Etheldrede de Hildresham.

¹³ It is here added in the record that John de Godesfelde and Emma took back to themselves an estate in fee.

¹⁴ The words between brackets are omitted from 25,184.

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A.D. 1342. there are only three messuages and sixteen acres of land, and for those there ought not to be an assise, because James, father of John Beauflour, whose heir he is, died seised, and after his death they descended to John as son and heir. And because the tenements are holden in socage, Emma, the infant's mother, seized the lands by reason of nurture during the nonage of John Beauflour, and took to husband John de Godesfelde; and John de Godesfelde aliened during the nonage of John Beauflour to one Etheldreda de Hildresham and William younger brother of the said John Beauflour, and took back an estate to him and his wife; by reason whereof John Beauflour freshly at his full age entered; judgment whether an assise, &c.—*Pole*. As to this last plea you make us a total stranger to the descent from your ancestor to you, and you speak moreover of an alienation, and say that we took back an estate, which taking back is not traversable; neither do you justify your entry by the alienation which we made as you say; wherefore the law does not put us to answer, and we pray the assise.—*SHARDELOWE*. You must make a different title if you will have the assise, or else abide judgment on his admission.—*Pole* imparled.—*Rokele*, as to the two shops, said that one Adam [atte Lee] was seised and gave to one John Marsy, which John Marsy gave to Emma the wife of John de Godesfelde for the term of her life, and she continued that estate until she took John de Godesfelde to husband, and thus they were seised, without this that James, and Emma his wife, and John Beauflour ever had anything by gift from Adam atte Lee as

Observe,
in this plea,
that the
defendant
pleaded in
bar against
the tenant
for term of

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forsqe iij mies et xvj acres de terre, et de ces assise ne A.D. 1342.
 deit estre, qar James, pere Johan Beauflour, qi heir il est,
 morust seisi, apres qi mort descenderent a Johan come a
 fitz et heir. Et pur ceo qe les tenementz sount tenuz
 en socage,¹ Emme,² mere lenfant, seisit les terres par
 resoun de norture duraunt le noun age Johan Beauflour,
 et prist baroun Johan de Godesfelde; et Johan de Godes-
 felde³ aliena, duraunt le noun age Johan Beauflour, a une
 Etheldrede de Hildresham⁴ et William frere puisne le
 dit Johan Beauflour, et reprist estat a luy et sa femme;
 par quei Johan Beauflour freschement a soun pleyn age⁵
 entra; jugement si assise, &c.—*Pole*. Quant a ceo
 darrein plee⁶ vous nous faites⁷ tut estraunge a la
 descende de vostre auncestre a vous, et parles outre de
 alienacion, et qe nous reprimes⁸ estat, quele reprise nest
 pas traversable, ne vous ne justifies pas vostre entre par
 lalienacion qe nous fimes, a ceo qe vous dites; par quei
 ley ne nous mette pas a respondre, et prioms assise.—
SCHARD. Il covient qe vous faces altre title si vous
 avez assise, ou demures en jugement sur sa conis-
 saunce.⁹—*Pole* emparla.—*Rokele*, quant a les deux
 schoppes, dit qun Adam fuit seisi et dona a un Johan
 Marsy,¹⁰ quel Johan Marsy¹⁰ dona a Emme la femme
 Johan de Godesfelde a terme de sa vie, la quele cele¹¹
 estat continua tanqe ele¹² prist Johan de Godesfelde¹³ en
 baroun, et issint furent ils seisiz, saunz ceo qe James, et
 Emme sa femme, et Johan Beauflour unges rienz avoint del

*Vide in
 isto pla-
 cito il
 pleda en
 barre vers
 le tenant a
 terme de*

¹ The words from morust to socage are repeated in 25,184.

² MSS. of Y. B., M.

³ The words Johan de Godesfelde are supplied from the record.

⁴ The MSS. of Y. B., G., instead of Etheldrede de Hildresham.

⁵ The words a soun pleyn age are omitted from Harl.

⁶ The words a ceo darrein plee are omitted from Harl.

⁷ 16,560, ne feistes, instead of faites.

⁸ T., repreissoms.

⁹ Harl., Court.

¹⁰ T., and 25,184, G.; 16,560 and Harl., B., instead of Johan Marsy.

¹¹ cele is omitted from Harl.

¹² T., tanqil, instead of tanqe ele.

¹³ T., G.; 25,184, J. G., instead of Johan de Godesfeld.

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A.D. 1342. they have alleged above ; ready, &c., by the assise.—*Pole* returned, and said that there was no bar, for (said he) your plea is intended to show that we conveyed to another by feoffment, and that is a plea to the assise.—*Thorpe*. Abide judgment on that point, and it will be proved to be a bar.—*Quære*.—Afterwards *Pole* held to his title, and prayed the assise.—*Thorpe*. He has traversed only one point of our bar, to the effect that we have nothing by feoffment from Adam atte Lee, so the rest is to be held as not denied by the title which he makes, and so he has admitted his alienation ; judgment of his writ.—*SHARDELOWE*. He has destroyed your answer by which you have justified your entry, and besides that he has made a title, and that is sufficient.—*Thorpe*. We will aver the feoffment made to us as above ; ready, &c., by the Assise.—And the other side said the contrary.—And as to the other bar, *Rokele* made protestation that he did not admit any point of the bar, and said that, before the defendant had anything, the plaintiff was seised by the feoffment of William Beauflour, and continued that estate for years and days until disseised by those named in the writ ; ready, &c.—*R. Thorpe*. He traverses no point of the bar, but makes title, so the bar is not denied, viz., that our ancestor died

life, her
alienation
to another
person in
fee, and
so pleaded
that she
divested
herself, as
to which
seemle that
the issue is
to the
Assise.

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doun Adam atte Lee¹ solonc ceo qils ount allegge *supra*; A.D. 1342.
 prest, &c., par assise.—*Pole* resorti, et dit qe ceo ne fuit pas vie salien-
 barre,² qar vostre plee prove qe nous dussoms par feffe- acion fait a
 ment aver demys a autre, qest a lassise.—*Thorpe*. Demorez autre en
 sur cel point,³ et homnie provera qe cest barre.—*Quære*. fee, issint
 —Puis il se tynt sur soun title, et pria assise.—[*Thorpe*. pleda il
 Il ad traverse forsque un point de nostre barre, saver qe sa demise,
 nous navoms rien del feffement Adam atte Lee,² issi le de quei
 remenant]⁵ tenu a nynt dedit par taunt qil fait title, et semble
 issi ad il conu sa alienacion; jugement de soun bref.— estre al
 SCHARD. Il ad destruit⁶ vostre respons⁷ par quel vous Assise.¹
 avez justifie vostre entre, et outre ceo ad fait title, quele
 chose suffit.—*Thorpe*. Nous voloms averer le feffement
 fait a nous *ut supra*; prest, &c., par Assise.—*Et alii e*
contra.⁸—Et quant a lautre barre *Rokele* fit protestacion
 qil conisast nul poynt del barre,⁹ et dit qe, devant qe le
 defendant¹⁰ rien avoit, il fuit seisi par le feffement William
 Beauflour, et cele estat continua aunz et jours tanqe par
 ces nomes el bref disseisi; prest, &c.—*R. Thorpe*. Il
 traverse nul point del barre, mes fait title, issi le barre

¹ This marginal note is from 25,184 alone.

² MSS. of Y. B., W. instead of Adam atte Lee.

³ 25,184, baroun.

⁴ point is from 25,184 alone.

⁵ The words between brackets are omitted from 16,560.

⁶ 25,184, restreint.

⁷ 16,560 and Harl., dreit.

⁸ According to the record the issue was joined as follows: "Et Johannes de Godesfelde et Emma bene cognoscunt quod predictus Adam atte Lee fuit seisitus de predictis shopis cum pertinentiis, qui inde feoffavit quendam Johannem Marsy, clericum, tenendis sibi et heredibus suis imperpetuum, qui quidem Johannes Marsy de eisdem shopis feoffavit prefatam Emmam tenendis

"ad terminum vite ejusdem Emma, virtute cujus feoffamenti eadem Emma fuit inde seisita, et seisinam suam inde continuavit tota vita predicti Jacobi, et post mortem ejusdem Jacobi eadem Emma nupsit se ipsi Johanni de Godesfelde, qui quidem Johannes de Godesfelde et Emma fuerunt seisiti de eisdem shopis quousque predicti Johannes Beauflour et alii in brevi nominati ipsos inde disseisiverunt. Et hoc petunt quod inquiratur per patriam. Et Johannes Beauflour similiter." The interlocutory judgment of *Capiatur assisa* was then given. Adjournments only follow.

⁹ 16,560, baroun.

¹⁰ MSS. of Y. B., pleintif.

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A.D. 1842. seised, and that we freshly at our full age entered ; and he does not make a title higher than the death of our ancestor, and has not denied that our ancestor died seised ; judgment whether on such a title he ought to have an assise against us who are heir of our ancestor.—SHARDELOWE. He has destroyed your bar and your title, and has himself made a title to have an assise, and he says that before he was seised you never had anything, ready, &c., by which averment he destroys the ancestral title in you and everyone else, and he shows how he was seised and continued seised until you dis-seised him ; and it seems that this is sufficient.—W. Thorpe. Our bar and title begin higher than his title does, for we tell you that our ancestor was seised and died seised, after whose death our mother seized by reason of nurture, in which case the freehold was vested in us ; and so, if he does not traverse that special cause or otherwise make himself a title before our mother seized in that manner, that is not a title.—STONORE. The issue would otherwise be too obscure—to put his possession to the country when his mother held by reason of nurture.—HILLARY (*ad idem*). In whosoever name she seized, since she only claimed wardship, it was in the freehold of the person who was heir.—SHARDELOWE (*ad idem*). The foundation of his freehold is on the seisin of his ancestor, so you must speak as to something higher, since you do not deny that the ancestor died seised and that he is next heir.—Pole. I have neither admitted nor denied the seisin of James the father, nor that he is of his blood, nor will I say anything in that respect ; but since I have made title from a time before which I have offered to aver that he never had anything, I demand judgment whether I ought not to have the assise ; for his own possession is his title, and by whatever cause he could

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nient dedit, saver qe nostre auncestre morust seisi, et qe nous freschement a nostre pleyne age entrames; et il ne fait pas tite plus haut qe la mort nostre auncestre, qi il nad pas dedit qe morust seisi; jugement si sur tiel tite vers nous qe sumes heir nostre auncestre deyve assise avoir.¹—SCHAR. Il ad destruit vostre barre et vostre tite, et soi ad fait mesme tite pur avoir lassise, et dit qe devant qil fuit seisi vous navez unques rien, prest, &c., par quel² averement il destruit tite auncestrel en vous et chesqun altre, et moustre coment il fuit seisi et continua tanqe vous luy disseisistes, et ceo semble qe suffit. —*W. Thorpe*. Nostre barre³ et tite comence plus haut qe ne fait soun tite, qar nous vous dioms qe nostre auncestre fuit seisi et morust seisi, apres qi mort par resoun de nuture nostre mere seisisit, en quel cas le frauntenement fuit vestu en nous, issi qe sil ne traverse cele cause especial, ou autrement se face tite avant ceo qe nostre mere seisisit par la manere, ceo nest pas tite.—STON. Lissue serroit trop coverte autrement—de jettre en pais sa possession quant sa mere tient par resoun de nuture.—HILL. (*ad idem*). En qi noun qele seisisit, quant ele clama forsqe garde, ceo fuit en le frauntenement celui qe fuit heir.—SCHAR. (*ad idem*). Le foundement de son⁴ frauntenement est de la seisine soun auncestre, issi qil covient parler plus haut, del heure qe vous ne dedites pas qil morust seisi et qil est procheyn heir.—*Pole*. Jeo nay conu ne dedit la seisine James le pere, ne qil soit de soun saunk, ne voille parler laundreit; mes del heure qe jay fait tite de temps devant quel jay tendu daverer qil navoit unques rien, jeo demande jugement si jeo ne deve assise avoir; qar sa possession demene est son tite, et par quecunqe

¹ In 25,184 there is a repetition of the long passage from SCHAR. Il ad destruit (p. 103) to assise avoir.

² quel is omitted from 16,560 and Harl.

³ The words nostre barre are omitted from 25,184.

⁴ son is from Harl. alone.

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A.D. 1842. have it I have traversed it by my general averment.—
Thorpe. And we demand judgment whether he ought
 to have an assise if he do not make a title higher than
 the death of our ancestor.—The opinion was that the
 title is good.

Process on (30.) § Alice late wife of Simon de Notingham
 a *Præcipe* brought a *Præcipe quod reddat* against John de
quod Notingham of Newton. As to parcel, John vouched,
reddat. And ob- and as to the residue he traversed the action. And
 serve how, afterwards the parol was by a Protection put without
 on one and afterwards the parol was by a Protection put without
 the same day. And afterwards a Resummons was sued, which
Præcipe, made mention *de loquela* where he had vouched,
 continu- and also *de loquela* where he had traversed the
 ance by action. And, by reason of the false Latin which there
 parcels was was in the Resummons in the first *loquela*, it was
 severed. adjudged that he should sue a fresh Resummons.¹ And

¹ See No. 21 above.

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cause qil la¹ poet aver par mon averement general jeo lay traverse.—*Thorpe*. Et nous jugement sil deyye assise aver sil ne face tite pluis haut qe la mort nostre auncestre.²—*Opinio* qe le tite est bon.³ A.D. 1342.

(30.)⁴ § Alice qe fuit la femme Symon de Notingham porta *Præcipe quod reddat* vers Johan de Notingham de Newton. Quant a parcelle Johan voucha, et quant al remenant il traversa laccion. Et puis la paroule par proteccion demura⁵ saunz jour. Et puis resomons suy,⁷ qe fist mencion *de loquela* ou il avoit vouche, et auxi *de loquela* ou il avoit traverse laccion. Et, par faux Latin qil y avoit en la resomons⁸ en la primere *loquela*, fuit agarde qil suyst⁹ novel resomons.

Proces en un *Præcipe quod reddat*. Et vide coment, en une mesme *Præcipe*, la continuance par parcelles fuit severe.⁶

¹ 25,184, ne.

² According to the record the rejoinder was as follows: "Et Johannes Beauflour dicit quod, ex quo predictus Johannes de Godesfelde non dedit quin predictus Jacobus pater, &c., obiit seiscitus de predictis tenementis in dominio suo ut de feodo, et quin ipse Johannes Beauflour est filius et heres ejusdem Jacobi, et quin predicta Emma mater, &c., fuit seiscita de eisdem nomine custodis, &c., tempore quo idem Johannes Beauflour fuit infra statem, &c., ratione nutrituræ, &c., quæ quidem possessio predictæ Emmæ censi debet in jure ejusdem Johannis Beauflour, petit quod Curia teneat illa pro concessis, &c. Et, ex quo ipse Johannes Beauflour fecit sibi titulum liberi tenementi de eisdem tenementis in forma predicta, petit judicium si predictus Johannes de Godesfelde assisam inde versus eum in hoc casu habere debeat, &c." Nothing

further appears, except adjournments.

³ The last sentence is omitted from 16,560 and Harl.

⁴ From T., 16,560, 25,184, and Harl. (until otherwise stated), but compared with the record *Placita de Banco*, Trinity, 16 Edw. III. R^o. 86d. It there appears that the action was brought in respect of various tenements in Newentone Blossesville (Newton Blossomville, Bucks), and that the vouchee was John son of William de Notingham. It is there stated that upon oyer of the writ of Resummons it was found to be ill conceived, but that the demandant was at liberty to sue a new writ.

⁵ The side note is from 25,184. In T. it is simply *Præcipe quod reddat*; in 16,560 and Harl., simply *Processus*.

⁶ T., fuit mys.

⁷ 16,560, eux; Harl., eus.

⁸ The words en la resomons are omitted from 16,560 and Harl.

⁹ 16,560, suelist.

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A.D. 1342. as to the other parcel process was had against the jury, and a *Nisi prius* was granted.—*W. Thorpe* rehearsed the process, and said : This is one *Præcipe* and one plea, which cannot be in part continued and in part not.—*HILLARY*. It can ; for in effect there are two pleas, and *Nisi prius* has been granted, and the process is good enough.—*W. Thorpe*. Further, if it seems to you that the process, notwithstanding, &c., can be continued, still we tell you that with respect to the parcel which is pleaded to the inquest the original purports two acres and a half of wood, and the Resummons only two acres of wood, and thus varies, and the parties are not yet adjourned.—*HILLARY*. We will see ; and if it be so that is not good, &c.

*Præcipe
quod
reddat.*

§ Alice late wife of Simon de Notingham brought her writ against J. de Notingham of Newton, and demanded against him certain lands and two acres and a half of meadow.—J., as to parcel of the land, vouched to warrant, and as to the meadow he said that it was only two acres, and as to that and as to the residue of the land he traversed the action, &c. Afterwards before . . . one as to the land in respect of which J. had vouched, and another in respect of that as to which he had pleaded, &c.—And in the summons in respect of the land as to which J. had vouched, &c., there were the words *tertiæ partis* where the words should have been *tertiam partem*, and *quas* where it should have been *quam* ; and therefore, as to that summons, because there was false Latin according to the manner of the writ, the writ was abated, notwithstanding the fact that it was a judicial writ.—And as to the other summons, by which J. was summoned to hear the verdict, &c., the Court would have granted a *Nisi prius*, &c.—*W. Thorpe*. Sir, this Resummons has issued upon one *Præcipe* alone, and against one and the same tenant ; wherefore, Sir, since the Resummons is abated in part, it

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Et quant al autre parcel proces fuit fait vers la A.D. 1342.
 Jure, et *Nisi prius* graunte.—*W. Thorpe* rehercea le
 proces, et dit qe cest un *Præcipe* et une paroule qe ne
 poet en partie ¹ estre continue et en partie nient.—*HILL*.
 Si poet; qar en effect ils sount deux paroules, et *Nisi*
prius est graunte, et le proces est assez bon.—*W.*
Thorpe. Et, sil vous semble qe le proces, *non obstante*
&c., purra estre continue, unquore vous dioms qe en la
 parcelle ² qest plede al enqueste loriginal voet ij acres de
 bois et demi, et la resomons forqe ³ ij acres de boys, et
 issint variaunt, et les parties ne sount pas unquore
 adjournes.—*HILL*. Nous verroms; et si issint soit ceo
 nest pas bien, &c.

§ Alice ⁴ qe fut la feme Symond de Notingham porta *Præcipe*
 soun bref vers J. de Notingham de Neutone, ⁵ et demanda *quod*
 vers luy certeyn terres et deux acres de pree et demi.— *reddat.*
 J., quant a parcelle de la terre, voucha a garrantir, et
 quant a pree il dit qe ce ne fut forqe deux acres, et
 quant a ceo et al remenant de la terre il traversa lac-
 cion, &c. Pus apres, avant ceo qe ce ⁶ J. ⁶ un de la terre
 de qi il avoit vouché et un altre de ceo de quei il avera
 plede, &c.—Et en le sumons de la terre ou J. avera
 vouché, &c., il avoit *tertiæ partis*, ou il dust aver este
 certi partie, ⁶ et *quas* ou il dust aver este *q⁶*; par quei,
 quant a cel sumons, pur ceo qil avoit faux Latyn par la
 manere, le bref fut abatu, *non obstante* qe ceo fut un
 judicial.—Et quant al autre somons ou J. fut somons
 doyre la Jure, &c., la Court voleit aver grante un *Nisi*
prius, &c.—*W. Thorpe*. Sire, cest resumons cy est issu
 solumment dun *Præcipe* et devers un mesme tenant; par
 quei, Sire, de pus qe le resomons est abatu en ⁷ partie, il

¹ The words en partie are omit-
 ted from 25,184.

² 16,560 and Harl., parole.

³ forqe is omitted from 25,184.

⁴ This report of the case is from

L. alone. MS. Amye, instead of
 Alice. See No. 31, above.

⁵ MS. Stuctome.

⁶ The MS. appears to be corrupt
 in this place.

⁷ MS., est.

No. 31.

A.D. 1342. shall abate in its entirety ; wherefore, &c.—And, because there were two summonses, the Court would not, for that reason, abate the writ except only as to that summons in which the defect was.—*W. Thorpe*. Sir, as to the other summons, you will find that it is not in accordance with the Original, because the demand in the Original, in respect of which J. pleads, &c., here, is for so much land and two acres and a half of meadow. Now, Sir, in this Resummons mention is made only of so much land and two acres ; and so it is not in accordance, &c. Therefore, &c.—A.'s attorney, when he pleaded, &c., said that what A. demanded was two acres and a half of meadow, and there were but two acres as above, and it was so entered on the roll ; and therefore it is necessary that a Resummons should be in accordance with the roll, &c. ; wherefore, &c.

Entry, in a case in which the writ was abated, because in the writ (31.) § Entry through Isilia, who by assignment held the tenements in dower of the Prior of Kenilworth, the demandant, &c.—*W. Thorpe*. This writ does not comprise any cause of action, for by the writ it is not supposed that an alienation was made in fee, so

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abatera en tut; par quei, &c.—Et, pur ceo qil i avoit ij A.D. 1342.
somons, la Court ne voleit my, par cele cause, abatre le
bref, forqe soulment quant a tiel somons la ou la defaute
fut.—*W. Thorpe*. Sire, quant al autre somons, vous
troverez qil nest mye accordant al original, qar le
demande en loriginal, de qi J. plede, &c., cy, est tant de
terre et ij acres de pree et demi. Ore, Sire, cest re-
somons ne parle forqe de tant de terre et deux acres;
issint nest il mye acorde, &c. Par quei, &c.—Lattourne
A. quant il plede, &c., il dit qe ceo qe A. demande com ij
acres de pree et demi, et ne furent qe deux acrez *ut*
supra, et issint fut il entre en roule; par quei il covient
qe la resomons fut accordant a roule, &c.; par quei, &c.

(31.)¹ § Entre par Isile,² qe ceo tynt en dower del Entre, ou
le bref fuit
abatu qar
en le bref
Priour de Kenilworthe, demandaunt, par assignement, &c.
—*W. Thorpe*. Ceo bref ne comprend nule accion, qar
par le bref nest pas suppose alienacion fait en fee, issi

¹ From T., 16,560, 25,184, and Harl. (until otherwise stated), but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 107, and (as to the reversal of judgment) by the record *Placita coram Rege*, Michaelmas, 16 Edw. III., R^o. 22. It there appears that the action (Entry in the *Per* and *Cui*) was brought by the Prior of Kenilworth against John son of John Piers, in respect of land, &c., in Radford Simele (Warwickshire). The writ which was abated purported that the tenant had not entry but by John Piers (the father), to whom Isilia late wife of William de Symely, tenant in dower, conveyed the tenements. As appears by the count, Geoffrey, William's son and heir, assigned them to her as her dower, and after-

wards granted the reversion to Ralph de Saltford, who granted it to Roger Boyville and John Lok. They granted it to the Prior and his successors; and Isilia attorned to the several reversioners in succession. There is no mention of Isilia's death either in the writ or in the count.

The plea in abatement of the writ was that the Prior "in brevi
" suo prædicto nullam fecit men-
" tionem quod prædicta Isilia
" obiit, nec aliquam aliam causam
" assignat qualiter prædicta tene-
" menta sibi de jure modo re-
" manere debent, et sic breve istud
" est defectivum in se, unde petit
" judicium de brevi, &c."

² T., Isile; 16,560 and Harl., J., fille.

No. 31.

A.D. 1342. that the action could be maintained by reason of disherison, nor is the death of the tenant in dower supposed so that by reason of a reversion this land ought to revert to the demandant; judgment of the writ.—*Pole*. You have demanded view, and therefore the writ is affirmed to be good; and, if she be alive, that can come by way of answer, and thus you are not put to any mischief.—*SHARSHULLE*. If he had pleaded to the inquest we would abate the writ, since it does not comprise any cause of action.—*KELSHULLE* abated the writ.—And note that it was said that in the Chancery a writ supposing death in such case is not given except in writs in the *post*, and this writ was in the *per*.—But this was not allowed by the Justices.—Nevertheless such is the form in the Chancery.—And afterwards suit was made in the King's Bench to reverse the judgment.—And it was reversed, and the plea on the original was held there, &c.—See below, Michaelmas in the 16th year.¹

there was
no cause
of action
supposed.
And after-
wards that
judgment
was re-
versed be-
cause the
Chancery
form is
such in a
writ of
Entry in
the *per*.

¹ Mich. 16 Edw. III., No. 51.

No. 31.

qe laccion³ par cause de desheritaunce purreit estre mayntenu, ne la mort la tenante en dower nest pas suppose³ issi⁴ qe par cause de reversion ceste⁵ terre luy duist revertir; jugement du bref.⁶—*Pole*. Vous avez demande la vieve, par quei le bref est afferme bon; et, si ele soit en vie, ceo poet venir par voie de respouns, et issint nestes⁷ vous pas a meschief.—*SCHAR*. Sil ust plede a lenqueste nous abateroms le bref, qar⁸ ceo no comprennent nule accion.—*KELS*. abati le bref.—*Et nota* qe fuit dit qe en Chauncellerie bref supposant mort en tiel cas nest pas done forsque en brefs en le *post*, et ceo bref fuit en le *per*.—*Sed non allocatur per Justiciarios*.—*Tamen*⁹ *talis est forma in Cancellaria*.¹⁰—Et puis est suy en Baunk le Roi de reverser.—Et est reverse, et le plee sur loriginal illoeques tenu, &c.—*Vide infra Michaelis xvj*.¹¹

A.D. 1342.
il nyavoit
nule cause
daccion
suppose.
Et puis
judicium
illud re-
verse qar
forma
Cancellaria
talis
in brevi en
le per.¹

¹ The side note is from 25,184.
In T. the side note is "Entre a la comune ley. *Nota*." In Harl. it is Entre par tenant.

² T., lalienacion.

³ suppose is omitted from Harl.

⁴ T., yey.

⁵ ceste is omitted from Harl.

⁶ The words du bref are from 16,560 alone.

⁷ nestes is omitted from Harl.

⁸ T., quant.

⁹ 25,184, cum.

¹⁰ The report ends here in 16,560 and Harl.

¹¹ The last sentence is from 25,184 alone.

The judgment in the Common Bench was "Quia videtur Curie quod breve istud est defectivum in materia, ex causa predicta, consideratum est quod predictus Prior nihil capiat per breve istud."

In the King's Bench the Prior

assigned for error that the writ had been abated, as above, "ubi nullum aliud breve quam tale in Cancellaria Domini Regis in hujusmodi casu conceditur seu usitatur, et idem Prior in narratione sua satis ostendit Curie quod predicta tenementa ei deberent remanere, per concessionem reversionis eorundem tenementorum, post mortem predictarum Isilye, eidem Priori et successoribus suis per predictos Rogerum et Johannem factam, ac per attornamentum ipsius Isilye. Et sic in hoc quod alia forma brevium in brevibus de ingressu infra gradus non usitatur in Cancellaria Regis, &c. . . . erraverunt omnino."

The Justices sent for the Original Writ. Afterwards "visis et examinatis recordo et processu predictis, ac judicio inde reddito cum diligenti deliberatione, et

No. 31.

A.D. 1342.

Entry.

§ The Prior of Kenilworth brought his writ of Entry against John son of John Piers, and demanded against him certain tenements into which this same John had not entry but by Isilia late wife of William de Symely, who demised them to him, and who held them in dower, by endowment of this same W., of the aforesaid Prior, by virtue of the assignment which Roger Boyville and John Lok (of whom the aforesaid Isilia held the same tenements in dower by virtue of the assignment made by Ralph de Saltford, of whom this same Isilia held the same tenements in dower by assignment of Geoffrey son and heir of the aforesaid William de Symely) made thereof to this same Prior and his successors for ever.—And he counted of the seisin of W. de Symely in his demesne as of fee, &c., and showed by his count how the tenements descended from William to Geoffrey as to son and heir, which Geoffrey assigned the same tenements to this same Isilia, to hold in name of dower, and afterwards granted the reversion to Ralph de Saltford, and to his heirs, wherefore Isilia attorned. This Ralph afterwards granted the reversion to Roger Boyville and

No. 31.

§ Le¹ Priour de Keneworth porta son bref dentre vers J. Fitz J. Pieres, et demanda vers luy certeyn tenementz en les quex mesme cesti Johan navoit² entre si noun par Isyly qe fut la feme W.³ de S., qe ceux ly lessa, qe ceux tient en douwere, del douwement mesme cesti W.,³ de lavant dit Priour, del assignement qe R.⁴ et J.⁵ (des quex lavant dite Isyly mesmes les tenementz tient en douwere del signement R.,⁶ de qi mesme ceste Isyly tient mesmes les tenementz en douwere [del assignement] mesme ceo G.⁷ fitz et heire lavant dit W.³) de ceo en firent a mesme cesty Priour et ces successors⁸ a touz jours.—Et counta de la seisine W.³ en son demene com de fee, &c., et moustra par son counte coment lez tenementz descendirent de W.³ a G.⁷ com a fitz et heire, lequel G.⁷ assigna mesmes lez tenementz a mesme cele Isyly, a tener en non de douwere, et pus granta la reversion a R.⁶ et a ces heirs, par quei I. se attourna; lequel R.⁶ granta pus la

A.D. 1342.
Entre.

"habito inde colloquio cum Clericis de Cancellaria Domini Regis, videtur Curie hic quod Justiciarii predicti in redditione judicii predicti erraverunt omnino, eo quod per predictum breve originale expresse potest supponi quod predicta Isilia jam obiit ex quo in eodem brevi continetur quod ipsa tenuit predicta tenementa in dotem, et alia forma brevis quam talis in Cancellaria Domini Regis in hujusmodi casu in brevibus de ingressu infra gradus non usitatur nec solebat uti," the previous judgment is reversed, and judgment is given that the Original Writ do stand in force and be held good.

A day is given to the parties, and after several adjournments they appear, when the writ is recited and

the count for the Prior is repeated in the King's Bench as counted in the Court of Common Pleas.

The tenant in his plea then traverses Isilia's attornment to Roger Boyvill and John Lok. On this issue is joined. The jury at *Nisi prius* finds that she did attorn, and judgment is given by the Court of King's Bench that the Prior do recover the tenements. See below, Y.B., Mich. 16 Edw. III., No. 51.

¹ This report of the case is from L. alone.

² MS., avoit.

³ MS., R.

⁴ MS., W.

⁵ MS., H.

⁶ MS., A.

⁷ MS., R.

⁸ MS., heires successors.

⁹ MS., G.

No. 31.

A.D. 1342. John Lok and their heirs, wherefore Isilia attorned, &c. They afterwards granted the reversion to the Prior and his successors, &c., wherefore Isilia attorned, &c. And after the entry was recited in the writ, the words of the writ were no more than "which tenements ought to revert to the aforesaid Prior," without showing any other cause why they should so revert.—*Thorpe*. Judgment of the writ, because in the writ there is no cause assigned wherefore the tenements ought to revert, such as because Isilia aliened in fee, or because she is dead, or any other cause; wherefore, &c.—*Pole*. You have demanded view, and therefore you have affirmed the writ to be good, because this exception does not come upon view.—*SHARSHULLE*. Although he has demanded view, that cannot affirm anything in respect of the writ, when there is no matter in your writ upon which an action can be founded; now there is no cause shown in your writ upon which it could be understood that an action could be maintained.—It was, therefore, adjudged that the Prior should take nothing by his writ.—*SHARSHULLE* said that, even though the parties had pleaded to the inquest on this writ, still the Court would, of Office, abate this writ, because in the writ there is no matter upon which an action could be taken.—And some said that in case tenant for term of life alienes in fee and dies, one shall not have any other writ against a tenant within the degrees, and that they had seen such a writ maintained in such a case.—See above, Michaelmas Term in the 14th year,¹ where such a writ was maintained in the *post*, notwithstanding that the words of the writ were *et quæ post mortem* of the tenant for term of life *ad ipsum reverti deberent*, and that the writ did not show any other cause why the tenements should revert according to the manner in which the demise was made.

¹ Apparently No. 40.

No. 31.

revercioun a R.¹ et J.² et a lez heires, par quei Isyly A.D. 1342. sattourna, &c. ; les quex R.¹ et J.² pus granterent la reversioun a Priour et a ces successours, &c. ; par quei Isyly sattourna, &c. Et apres ceo qe lentre fut rescete en le bref, le bref ne voleit aultre rien mes les quex [al] avant dit Prior revertir deyvent, saunz moustrer autre cause pur quei ils dussent revertir.—*Thorpe*. Jugement de bref, qar en le bref il ia nul cause pur quei les tenementz dussent revertir, auxi com pur ceo qe Isyly aliena en fee, et pur ceo qe ele est mort, ne nul aultre ; par quei, &c.—*Pole*. Vous avez demaunde la viewe, par quei vous avez afferme le bref, qar ceste excepcion ne vynt mye de la vewe.—*SCHAR*. Coment qil ad demande la vewe se ne put nyent affermer vers le bref, la ou il nad pas matere en vostre bref sour qi accion put estre foundu ; ore nad il nul cause en vostre bref sour quei homme purreit entendre qe accion purreit estre meyntenu.—Par quei agarde fut qe la Priour ne prist rien par son bref.—*SCHAR*. dit qe, mesqe la partie ust plede a lenquest en cel bref, unqore la Court doffice abatereit le bref, *eo quod* en le bref il nad nul matere sour quei accion purra estre pris.—*Et quidam dixerunt* qe en cas qe tenant a terme de vie aliene en fee et devie qe devers cesti qest tenant deynz lez degres home navera mye autre bref, et qil avoit vewe tiel bref estre meyntenu en le cas.—*Vide supra termino Michaelis xiiij*, ou tiel bref fut meyntenu en la *post*, salve qe le bref voleit *et que post mortem* le tenant a terme de vie *ad ipsum reverti deberent*, et ne moustra nul aultre cause par quei ils dussent revertir en quel manere le lesse fut fait.

¹ MS., W.² MS., H.

No. 32.

A.D. 1342. (32.) § The Abbess of Barking brought a writ of
 Detinue of a writing, where the person who was warned by *Scire facias* traversed the plaintiff's declaration, which the defendant, who was a party to him, had accepted.

Detinue of a writing (by which Bartholomew de Langriche and John Hankyn of Ongar were bound to her in £100) against John de Sutton, knight, and counted how certain covenants were entered into between Iolenta her predecessor and the aforesaid Bartholomew and John, on a certain day, in a certain year, and at a certain place, &c., to wit that if eight men of the Hundred of Becontree, on the part of the then Abbess or her successors, or on the part of their church in time of vacancy, should come on a certain day ready to swear, while touching the Holy Gospels, that the then Abbess and her predecessors had always had the View of Woodford, &c., and then the Abbot should grant for himself and his successors, with the assent of his Convent, that he would not make any further disturbance or claim against the Abbess, &c., and, for security of performance of the covenants, the obligation was delivered to the said John as an impartial person, upon condition that if the said covenants should not be performed by the Abbot, then the writing should be

No. 32.

(32.)¹ § Labbesse de Berkyngge porta bref de Detenue descript, par quel Bertelmeu de Langriche³ et Johan Hankyn⁴ Daungre luy sount tenuz en *cli.*, vers Johan de Suttone, chivaler, et counta coment certeyns covenantz se pristrent⁵ entre Iolente⁶ sa predecessoresse⁷ et les avanditz B. et J., certeyn jour, an,⁸ et lieu, &c., saver⁹ qe si viij hommes [de par Labbesse adonques, ou sa successere,⁷ ou de par lour eglise en temps vacaunt],¹⁰ del Hundred de B.,¹¹ venissent certeyn jour prest a jurer,¹² *tactis sacrosanctis Evangeliiis*,¹³ qe¹⁴ Labbesse adonques et ses predecessoresses de tut temps avoient eu la viewe de W.,¹⁵ &c., et qe Labbe de Waltham grauntereit pur luy et ses successors, par assent de soun¹⁶ Covent, qe¹⁷ mes¹⁸ ne metteroit destourbance ne cleyme countre Labbesss, &c., et en surte¹⁹ des covenantz parfaire loblignacion fuit baille²⁰ come²¹ en owele mayn au dit Johan, issi qe si les ditz covenantz defailleissent de part²² Labbe, qe²³

A.D. 1312.
Detenue
de Escript,
ou cely qe
fut garni
par le Scire
facias tra-
verser la
mustrance
le pleintif,
quel le de-
fendant, qe
fuit partie
a ly, avoit
accepte.²

¹ From T., 16,560, 25,184, and Harl. (until otherwise stated), but corrected by the record, *Placita de Banco*, of Hilary Term, 16 Edw. III., and by the *Rotulus Regis* of the Common Bench of Trinity Term in the same year. See Appendix.

² The words of the marginal note after Escript are from 25,184 alone. In 16,560 the note is *Scire facias* only.

³ T., 25,184, and Harl., Langrigge.

⁴ T., J. H., instead of et Johan Hankyn.

⁵ The words *se pristrent* are omitted from Harl.

⁶ 25,184, Yolente. The name is omitted from T. and Harl.

⁷ The unabbreviated form of the word is from T. alone.

⁸ an is omitted from Harl.

⁹ saver is omitted from 16,560.

¹⁰ The words between brackets are omitted from 25,184.

¹¹ MSS. of Y.B., T.

¹² The words *prest a jurer* are omitted from T.

¹³ The words *tactis sacrosanctis Evangeliiis* are from T. alone.

¹⁴ T., jurassent qe.

¹⁵ T., B; 16,560 and Harl., A.

¹⁶ soun is omitted from Harl.

¹⁷ Harl., et.

¹⁸ T., mees.

¹⁹ 16,560 and Harl., soerte; 25,184, seorte.

²⁰ 16,560 and Harl., fait et baille.

²¹ come is omitted from 16,560 and Harl.

²² T., faillassent par; 16,560 and Harl., defailleissent de par, instead of defailleissent de part.

²³ par quei.

No. 32.

A.D. 1342. delivered to the said Abbess or her successors ; and she showed that the covenants were not performed on the part of the Abbot, whereby an action accrued to demand the writing, &c.—John de Sutton acknowledged the delivery on condition, and said that he did not know whether the conditions had been performed or not ; wherefore a *Scire facias* issued against Bartholomew and John.—They now came and showed by *R. Thorpe* that the count entered on the roll was not a warrant for giving judgment for the plaintiff, because in the roll *Iolenta*, the predecessor of the Prioress, is first supposed to be a party to the covenant, and afterwards, in a subsequent passage, the present Abbess is supposed to be a party, which is contradictory.—And the roll was searched ; and the fact was found to be otherwise than as he alleged, for the entry was made as was supposed by his exception, but had been subsequently amended.—*R. Thorpe*. Although the roll may have been amended by the clerks, you will find that the amendment was made after our exception. Besides, the King's Roll is different from your Roll now.—And the King's Roll was searched, and the two were found to vary ; and therefore it was said that this was no record.—And afterwards *Thorpe* waived this point, and said that the covenants were different, that is to say, that the eight men were to swear, and not that they were to be ready to swear, and also that *Iolenta* herself was to come, without any mention of her successor, or of any one else on behalf of the church. And he said further that the covenants on the part of the Abbess were broken, and showed that those on the part of the

Observe :
more re-
gard was
had to the
Roll of the
Justices,
which was
in accord-
ance
[through-
out], than
to the
King's
Roll, in
which
there was
a variance.

No. 32.

lescript serroit livere a la dite Abbessse ou ses succes- A.D. 1342.
seres; et moustra qe les covenantz ne furent pas tenuz¹
de par Labbe,² par quei accion accrust a demander
lescript, &c.—Johan de Suttone conust la livere par la
condicion, et dit qil ne savoit si les condicions furent
tenuz ou noun; par quei *Scire facias* issit vers B. et
Johan, qe³ vyndrent ore et moustrerent⁴ par *R. Thorpe*
qe le count⁵ entre en roule ne fuit pas garrant de
rendre jugement pur le pleintif, qar primes en roule est
Iolente,⁶ predecessoresse la Prioressse, suppose partie al
covenant, et puis pursuaunt apres suppose est Labbesse
qor est partie, qest contrariaunt.—Et roule quis, qe fuit
trove altre qil nallgge, qar ceo fuit issint entre come
soun⁷ challange suppose, mes puis il fuit amende.—
R. Thorpe. Tut soit le roule amende par clerkes, vous
troveres qe ceo fuit apres nostre challange. Ovesqe ceo,
le roule le Roi est altre qe nest vostre roule aore.—Et
fuit quis,⁸ et sount variauntz; par quei fuit dit qe ceo
nest pas recorde.¹⁰—Et puis¹¹ *Thorpe* le¹² weyva, et dit qe
les covenantz [furent autres, ceo est assavoir¹³ qe les viij
hommes jurent, et ne mye qil serroint prest a jurer, et
auxi qe Iolente mesme vendreit, sanz parler de succes-
sour,¹⁴ ou dautre de par la eglise. Et dit outre qe la
covenantz]¹⁵ furent enfrentz de part Labbesse, et

Vide:
homme
avoit plus
de re-
garder au
Roule des
Justices,
qe fuit
accordant,
qe a Roule
le Roi qe
fuit des-
accordant,
&c.⁹

¹ Harl., detaillessent, instead of
ne furent pas tenuz.

² The words de par Labbe are
omitted from T. and 25,184.

³ 25,184, et.

⁴ The words et moustrerent are
omitted from Harl.

⁵ 25,184, contendre.

⁶ T., Yolente; 25,184, Ylente;
Harl., J.

⁷ soun is omitted from 16,560
and Harl.

⁸ T. and 25,184, enquis.

⁹ This marginal note is from
25,184 alone.

¹⁰ See Appendix, where the record
is printed from the *Placita de
Banco*, or roll of the Justices, and
the variations of the *Rotulus Regis*
are shown.

¹¹ The words Et puis are omitted
from 25,184.

¹² le is omitted from T. and 25,184.

¹³ Harl., assigne.

¹⁴ The words de successeur are
omitted from Harl.

¹⁵ The words between brackets
are omitted from T. and 25,184.

No. 32.

A.D. 1312. Abbot were kept, because the Abbot came by force of the covenants. And he said further that the conditions were that, in case the Abbess should not perform the covenants and the Abbot should do what was for him to do, the writing should be delivered to them; and thus the writing ought to be delivered to them, and they prayed to have the writing.—*Stouford*. He who is party to us in our writ, namely J. de Sutton, has admitted the conditions to be as we have counted; and you have come to answer whether you can say anything wherefore the writing according to those conditions ought not to be delivered to us; wherefore the law does not put us to answer to any collateral covenant.—*W. Thorpe*. And if he against whom you have brought your writ be in league with you, and admit to you that which was never true, that shall not prejudice me so that I shall not be admitted to say that the covenant was different.—*SHARDELOWE*. How do the parties who were called appear?—The Abbess appeared by attorney against John de Sutton, and Bartholomew and John by attorney against the Abbess.—*W. Thorpe*. We have to answer the Abbess, who does not appear by attorney against us, or in her own person; judgment.—*Stouford*. The Abbess appears by attorney against the defendant against whom she is to have her judgment; and that warrant is sufficient against every one who could be party to this plea. But as to Bartholomew and John, who are warned, they can not appear by attorney until they have pleaded, and they do not come in their own persons; judgment, and we pray that the writing be delivered to us.—*HILLARY*. I do

Observe
that it was
said ap-
pearance
by attorney
does not
lie before

No. 32.

moustra qe de part Labbe furent tenuz, qar Labbe vynt A.D. 1342.
 par force des covenantz. Et dit outre qe les covenantz
 furent qen cas qe Labbesse¹ ne parfournist² pas les
 covenantz, et qe Labbe feist ceo qe en luy fuit, qe lescript
 serroit livere a eux; et issi serroit³ lescript [livere a
 eux, et prierent lescript].⁴—[*Stouf.* Cely qest partie a
 nous en nostre bref, saver J. de Suttone, il ad]⁵ graunte
 les covenants solonc ceo qe nous avoms counte; et vous
 estes venuz a respondre si vous sachez rien dire pur
 quei lescript solonc ces covenantz ne nous⁶ deit⁷ estre
 livere; par quei a⁸ altre covenant de coste la ley ne
 nous mette a respondre.—*W. Thorpe.* Et si cely vers
 qi vous avez porte vostre bref soit de vostre assent, et
 vous conust chose⁹ qe unques ne fuit verite, ceo ne me¹⁰
 grevera pas qe jeo ne serra¹¹ resceu a dire qe le covenant
 fuit altre.—*SCHARD.* Ou sount les parties qe furent
 demandez?—Labbesse fuit par¹² attorne vers Johan de
 Suttone, et B. et J. par attourne vers Labbesse.—
W. Thorpe. Nous avoms a respondre¹³ al Abbessse qe
 nest par attourne vers nous, ne¹⁴ en propre persone;
 jugement.—*Stouf.* Labbesse est par attourne vers le
 defendant vers qi ele est daver soun jugement; et
 cel¹⁵ garrant suffit vers chesqun qe purra estre partie a
 ceo plee. Mes B. et J., qe sount garnis, et¹⁶ ne pount par
 attourne estre tanqe ils eient pledes, et ne veignent pas
 en propre persone; jugement, et prioms qe lescript
 nous¹⁷ soit livere.—*HILL.* Jeo ne vei pas cause pur

*Vide ut
dictum fuit
quod at-
torne ne
gist mye
devant*

¹ 16,560, Labbe.

² 25,184, fornist; Harl., persourust.

³ 16,560, serra.

⁴ The words between brackets are omitted from 16,560 and Harl.

⁵ The words between brackets are omitted from Harl.

⁶ 25,184, vous.

⁷ 25,184, deyve.

⁸ 25,184, par.

⁹ T., la chose.

¹⁰ 16,560 and 25,184, moy.

¹¹ Harl., serroi.

¹² Harl., en.

¹³ Harl., respondu, instead of a respondre.

¹⁴ T., et.

¹⁵ 25,184, tiel.

¹⁶ 16,560 and Harl., qe.

¹⁷ nous is omitted from Harl.

No. 32.

A.D. 1342.
plea
pleaded.
Above,
Hilary in
the 9th
year,¹ and
Michael-
mas in the
7th,² on
like writs.

not see any reason why both sides may not make attorneys in the *Scire facias*.—And afterwards the Abbess and the others came in their own persons.—*W. Thorpe*. We tell you that the covenants were not such as they have supposed by the count; for the covenants were that if Iolenta herself, who then was Abbess (without mentioning anyone else on the part of the church), should come, as above, and should bring eight men who should swear that the Abbess had right [&c.], and in case the Abbot should come and she should not come, the writing should be delivered to us, &c. And we tell you that the Abbess did not come at the day, &c., but the Abbot did come with his deed sealed with the common seal of the House, ready to have performed the covenants in case the Abbess Iolenta had come. And she did not come, and so the covenants on her part were broken; wherefore we pray that the writing be delivered to us.—*Stouford*. You are not a party to our Original Writ, and he who is a party to our writ has admitted the covenants to be in accordance with our count; and other covenants can not be tried on this Original. And since he is warned to answer whether he can say anything against our declaration, wherefore, as we suppose by our count, the writing should not be delivered to us, and he says nothing else, but only alleges different covenants, to which the law does not put us to answer, judgment; and we pray that the writing be delivered to us.—*W. Thorpe*. We are warned to answer whether we can say anything wherefore the writing should not be delivered to you, and we

¹ Y.B. Hil. 9 E. III. No. 12, | ² Y.B. M. 7 E. III. No. 34, fo.
fo. 6. | 54.

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quei ils ne pount faire attournes en le *Scire facia* dune part et daltre.—Et puis Labbesse et les autres vyndrent en propre persone.—*W. Thorpe*. Nous vous dioms que les covenantz ne furent pas tieux come ils ount suppose par counte; qar les covenantz furent que si Iolente mesme,⁴ que adonques fuit, saunz parler de nul autre de par leglise, vyndreit, *ut supra*, et menereit⁶ viij hommes⁷ que⁸ jurassent que Labbesse avoit dreit, et en ceo que Labbe vynt et ele ne venist⁹ pas que lescript nous serroit livere, &c. Et vous dioms que Labbesse ne vynt¹⁰ pas au jour, &c., mes Labbe vynt¹¹ ove soun fait enseale del comune seal de la mesoun, prest daver parfourni¹² les covenantz en cas que Labbesse Iolente¹³ ust venu. Et ele ne vynt pas, issi les covenantz enfreintz¹⁴ de sa part; par quei nous prioms que lescript nous soit livere.—*Stouf*. Vous nestes pas partie a nostre original, et celui qest¹⁵ partie a nostre bref ad conu les covenantz solonc ceo que nous avoms counte; et autres covenantz sur ceste original ne pount estre tries. Et del houre qil est¹⁶ garny¹⁷ sil sache rien dire countre nostre demoustrance, pur quei, solonc ceo¹⁸ que nous supposoms par nostre counte, lescript¹⁹ ne serra a nous livere, et autre rien²⁰ ne dit, mes allegge autres covenantz, a quei ley ne nous²¹ mette a respondre, jugement; et prioms que lescript nous soit livere.—*W. Thorpe*. Nous sumes garny si nous sachoms rien dire pur quei lescript ne vous serra livere,

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ple plede.
Supra. H.
ix., M. vij.,
talibus
brevibus,
&c.¹

¹ The marginal note is from 25,184 alone.

² Harl., vyndrunt.

³ T., Yolence; 25,184, Ylente; Harl., J.

⁴ mesme is omitted from T. and Harl.

⁵ 25,184, et.

⁶ 25,884, nomereit; Harl., *invenit*.

⁷ Harl., *homines*.

⁸ 16,560 and Harl., et.

⁹ Harl., vint.

¹⁰ 16,560, vient; Harl., veignit.

¹¹ vynt is omitted from Harl.

¹² T. and 25,184, fourny.

¹³ T., Yolente; 25,184, Ylente.

¹⁴ Harl., confreintz.

¹⁵ Harl., qe fait.

¹⁶ 16,560 and Harl., ad.

¹⁷ 25,184, garnis.

¹⁸ ceo is from Harl. alone.

¹⁹ 16,560 and Harl., pur quei lescript.

²⁰ 15,560 and Harl., chose.

²¹ Harl., vous.

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A.D. 1342. are made party by your own suit, and we understand that in this case, even though John de Sutton, against whom the Original is brought, had pleaded in league with you, and acknowledged the covenants to be different from that which they were, we should be admitted to traverse them; for otherwise, even though we had good reason to have the writing, we shall be foreclosed for ever from an action, because if we do not now show the reason for which we ought to have the writing, inasmuch as we are made party for that purpose, we shall never afterwards be heard.—*Stouford*. To what purpose will you take issue on a different covenant, when you can afterwards, without other mischief, plead it on a writ of Debt?—*HILLARY*. He pleads it at his peril, and you can take issue by traversing him, and maintain your count; and if the inquest pass for you, you will recover damages against him: and we think that he can traverse your declaration well enough.—*Pole*. In one aspect his plea is a traverse of our count, that is to say that there was no default by the Abbot; in another aspect it goes to aver that the covenants were other than as we have counted; wherefore, &c.—And afterwards the Abbess made her attorneys, who were admitted by the Court. And nevertheless she remained in her own person.—And afterwards they were at issue whether the covenants were that *Iolenta*, then Abbess, should come in her own person, &c., as above, or as the Abbess had now supposed

Observe as
to recovery
of dam-
ages.

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et sumes¹ fait partie par² vostre suite demene, et A.D. 1342.
entendoms³ en ceo cas qe tut eust⁴ Johan de Suttone,
vers qi loriginal est porte, plede par vostre assent, et
conu⁵ les covenantz altres qils ne furent, qe nous
serroms resceu de les traverser; qar autrement, mes qe
nous ussoms resoun daver lescript, nous serroms forclos
daccion a touz jours, qar si nous⁶ ne moustroms a ore
nostre resoun pur quei nous averoms lescript, del houre
qe nous sumes a cele⁷ entente fait partie, nous serroms
jammes apres escote.⁸—*Stouf*. [A quel effect prendres
vous⁹ issue sur altre covenant, quant vous le poez
apres¹⁰ saunz altre¹¹ meschief pleder en le bref de dette?
—*HILL*.]¹² Il le plede a soun peril, et vous poez¹³
prendre issue a travers de luy et meyntener vostre
counte; et¹⁴ si lenqueste passe pur vous, vous¹⁵ recoverez *Vide de*
vers luy damages; et nous entendoms qil poet traverser *recoverir*
vostre moustraunce assez bien.—*Pole*. A une entente *des dam-*
soun plee est a traverser nostre counte [cest a saver *ages*.]¹⁶
q]¹⁷ il y avoit pas defaute en Labbe; a un altre effect
daverer qe les covenantz furent altres qe nous avoms
counte; par quei, &c.—Et puis Labbesse fist ses
attournes, qe furent resceu *per Curiam*. *Et tamen* ele
demora en propre persone.—[Et puis sount a issue le
quel les covenantz furent qe Iolente¹⁸ adonques Abbess
vendreit en propre persone,¹⁹ &c.]²⁰ *ut supra*, ou

¹ 25,184, vous.² T., a.³ 25,184, nentendoms.⁴ T., fuit.⁵ Harl., come.⁶ nous is omitted from 25,184.⁷ 16,560, tiel.⁸ 16,560 and Harl., escute.⁹ vous is omitted from 25,184.¹⁰ apres is from 25,184 alone.¹¹ altre is from 25,184 alone.¹² The words between brackets
are omitted from 16,560 and Harl.¹³ 16,560 and Harl., ne pocz.¹⁴ et is omitted from 25,184.¹⁵ The second vous is omitted
from Harl.¹⁶ The marginal note is from
25,184 alone.¹⁷ The passage between brackets
is omitted from Harl., and the
words cest a from 16,560.¹⁸ T., Yolente.¹⁹ Harl., and 16,560, ove soun
suite, ou autre, instead of en propre
personne.²⁰ The words between brackets
are omitted from 25,184.

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A.D. 1342. by her count; ready, &c.—And the other side said the contrary.—And as to the performance of the covenants, both sides made their protestations, because issue cannot be taken on that at present, inasmuch as the count is traversed and that must be maintained.—And note that, in this plea, the point was touched that a person who is warned by *Scire facias*, even though the inquest pass for him, ought not to recover the writing on this writ.—*Quere.*

Detinue. § The Abbess of Barking brought her writ of Detinue, in respect of a writing obligatory, against John de Sutton, knight, in which writing it was contained that Bartholomew de Langriche and John Hankyn were bound to Iolenta, Abbess of Barking, and to her successors, in 100 marks, which Iolenta was the predecessor of this same Abbess.—John de Sutton appeared.—The Abbess counted against him that the writing was delivered to him by Iolenta, as to an impartial hand, on a certain condition, to wit, that if Iolenta or any of her successors (or two men on behalf of the church of Barking, in case the church should then be void) should come to Woodford with eight men of the Hundred of Becontree, on such a day and in such a year, who should be ready to swear on the Holy Gospels that this same plaintiff and her predecessors before her, from time whereof memory, &c., had had a Leet at Woodford to be holden, &c., and also the suit of certain people to the same Leet, and if the Abbot of Waltham, or some one on behalf of the Abbot, should come on the same day to Woodford, and bring with him a deed, sealed with their common seal, by which this same Abbot and his Convent granted for them and for their successors that this same Iolenta or her successors should not thenceforth be opposed or hindered by them or by their

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sicome¹ Labbesse² avoit ore suppose par counte;³ A.D. 1342. prest, &c.—*Et alii e contra*.—Et quant al par-fournir des covenantz firent⁴ lour protestacions dune part et daltre, qar sur ceo issue ne poet estre pris a ore, pur ceo qe le counte est traverse quel covient estre meyntenu.—[*Et nota quod tangitur in isto placito* qe celui qest garny, tut passe lenqueste pur luy, qil ne doit recoverer lescrip a ceo bref.—*Quæra*.]⁵

§ Labbes⁶ de Berkyngge porta son bref de Detenue et Detenue. dun escript obligatoire vers J. de Sutton, chivaler, en quel escript fut contenuz qe B. de L. et J. Hankyn furent obliges a Iolente, Labbesse de Berkyn, et a ces successours, en c. marcs, le quel Iolente fut predeceussour mesme cesti Labbesse.—J. vynt.—Labbes conta vers luy qe lescrip fut baille a luy par Iolente sour certeyn condicion, en ouwel mayn, saver qe si Iolente ou asqun des successours (ou ij homes de part leglise de Berkyngge, en cas qe adonques leglise fut voida) venist et venissent a W.⁷ ove viij homes del Wapentak de B.⁷ tiel jour et tiel an, qe serreyent prest a jurrer sour le seintz [Evangiles] qe mesme cesty pleintif et ces predeceussours devant luy, de temps dount memore, &c., avoyent ewe lete a W.⁸ a tener, &c., et auxint de la venue de certeyne genz a mesme la lete, et Labbe de Waltham, ou asqun de part Labbe, a mesme la jour venist a W.⁷ et portast ove luy un fet enseale de lour comune seale, par quel mesme cesti Abbe et son Covent grantent pur eux et pur lour successours qe mesme cele Iolente ou ces successours de cel hour en avant ne serrount mye empechez nentanglez par eux ne par lour successours

¹ T., Harl., and 16,560, Iolente seulement sicome.

² Harl. and 16,560, Labbe.

³ Harl. and 16,560, dit en soun respounce, instead of avoit ore suppose par counte.

⁴ 16,560 and Harl., sour.

⁵ The passage between brackets

is omitted from 16,560 and Harl.; but in Harl. there are substituted the words "*&c. Et alii e contra, &c.*"

⁶ This report of the case is from L. alone.

⁷ MS., P.

⁸ MS., K.

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A.D. 1242. successors in the holding of the aforesaid leet, &c., and, after the oath had been taken, should deliver the same deed to this same Iolenta or to those who should come on behalf of the church of Barking, &c., as above, then the deed should be delivered to the aforesaid Bartholomew and John ; and if the conditions abovesaid touching the Abbōt of Waltham should not be performed in the manner aforesaid, then the obligation should be delivered to Iolenta, or to her successors, or to those who should come, &c. And the Abbess counted that on a day appointed, &c., because Iolenta was then dead, and the church of Barking was then vacant, there came to Woodford on behalf of the church of Barking one John de Boys and one John de Cotum,¹ on behalf of the church of Barking, and brought eight men, &c., ready to swear, &c., as above, and the Abbot of Waltham did not then come, nor any one on his behalf, to receive the oath or to perform the conditions, &c. ; and therefore the deed ought, in virtue of the conditions, &c., to have been delivered to these same John de Boys and John de Cotum, and for that reason the present Abbess has many times since come to this same John de Sutton, and has prayed him to give the deed up to her, &c.—John de Sutton appeared, and said that he could not deny that the obligation was delivered to him upon the conditions aforesaid, but whether the conditions had been performed or not he said that he did not know.—Therefore a *Scire facias* issued to the Sheriff to warn Bartholomew, and John Hankyn to appear before the Justices, now at the Quinzaine, to show whether they could say anything wherefore the said obligation should not be delivered to the Abbess in the form aforesaid. And this *Scire facias* recited all the conditions which the Abbess had declared in her count, and how the conditions were broken by the Abbot of Waltham.—Bartholomew, and John Hankyn

¹ These names are from the record.

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a tener lavant dit lete, &c., et mesme la fait A.D. 1342. apres serment liverast a mesme cele Iolente ou a ceux qe vynderent de part leglise de Berkynge, &c., *ut supra*, qe adonques fet serreit livere a les avant dits B. et J.; et si lez condicions desusdits touchant Labbe de W. ne fussent my parfurnez en la manere avant dite, qe adonques lobligacion serreit livere a Iolente, ou a ces successours, ou a ceux¹ [qe] vindrent, &c. Et conta qe a jour assis, &c., pur ceo qe adonques Iolente fut morte, et donques leglise de B. fut voide, y veyndrent a W.,² de part leglise de B., un H. et un T. et amenerent viij homes, &c., prestez a sermenter, &c., *ut supra*, et adonques Labbe de W. ne vint pas, ne nul homme pur luy, pur resceivere le serment ne parforner les condicions, &c.; par quei le fait par force de les condicions, &c., dust aver este livere a mesmes ceux H. et T.; par quei sovent pus³ Labbes qore est ad venutz a mesme cesti J. de S. et luy ad prie qe la rendist le fet, &c.—J. de S. vynt et dit qil ne put dedire qe obligacion ne fut livere a luy sour les condicions avant dites, mes le quel les condicions furent parforniz ou nemye il dit qe ne savoit.—Par quei un *Scire facias* issit a Vicounte de garnir B. et J. destre devant la Justice, ore a la xv., a moustrer sil savoit rien dire pur qi le dit obligacion ne serreit livere a Labbes en la fourme avant dite. Et si le *Scire [facias]* recita touz condicions quex Labbes avoit moustre en soun counte, et coment les condicions furent enfreyens par Labbe de W.—B. [et] J.

¹ MS., touz.² MS., P.³ MS., plus.

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A.D. 1542. were warned, and appeared by attorney. And their attorney came and showed to the Court how there was a discontinuance of the process made against John de Sutton, and prayed of KELSHULLE, who was then in Court, that he would record this matter.—And, the next day, when the attorney expected to have had his advantage from the discontinuance, the record was amended, and it was good. Besides this, the attorney of John de Sutton prayed that, if there were any defect in the record, it might be amended.—*W. Thorpe* to KELSHULLE. Sir, he clearly supposes to you that the defect was shown to you; and therefore, Sir, that which is now entered on the roll cannot be called a record; and therefore, Sir, we pray that you will record the matter to be such as it was.—HILLARY. If there be a defect in a record, and a stranger, who is not a party, come and show this defect to the Court, the Court will have no regard to that which he says; and, if those who are parties pray that the defect may be amended by consent of the parties, the Court may very well amend by consent. Now Bartholomew, and John Hankyn are strangers to this record in which you assign a defect; and this record is solely between the Abbess and John de Sutton, whose attorney has prayed that, if any defect there be, it may be amended. Since we find the record to be good now, we shall not have any regard to that which you say, you being a stranger.—*R. Thorpe*. Then we tell you that the conditions were not such as the Abbess has supposed by her count, which she counted against John de Sutton, for we tell you that the conditions on which the writing was delivered were as follows, to wit, that the Abbess Iolenta should come to Woodford in her own person, and should bring with her eight men, &c., who should swear that this Iolenta and her predecessors had had a leet, &c., and that after they had made the oath they should elect

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furent garnis, et venderent par attourne. Et lour A.D. 1342. attourne vynt et moustra a la Court coment il avoit discontinuance de proces qe fut fait vers J. de S., et pria a KELS., qe adonques fut en la Court, qil volt ceo chose recorder.—Et lendemayn, quant lattourne entendist daver ewe ces avantages de la discontinuance, le recorde fut amende, et fut boun. Ovesqe ceo lattourne J. de S. pria qe si nul defaute ifust en la recorde quel fut amende.—*W. Thorpe* a¹ KELS. Sire, il vous sourmit bien coment la defaute vous fut mustre; par quei, Sire, ceo quest ore entre en roulle ne put neynt estre dit recorde; par quei, Sire, nous prioms qe vous voillez recorder la chose tiel com il fut.—*HILL*. Si defaute y soit en un recorde, et un estrange, qe nest mye partie, veigne et moustre cele defaute a la Court, la Court navera mye regarde a son dit; et, si cez qe sunt parties prient qe cele defaute soit amende par assent les parties, par assent le purra bien faire. Ore a cele recorde en quel vous assignez defaute B. et J. sount estranges; et cele recorde est soulement entre Labbes et J. de S., qi attourne ad prie qe si nul defaute y soit qe soit amende. Delour qe nous trovoms ore le recorde bon, nous ne prendrons my regarde a vostre dit qe est[ez] estrange.—*R. Thorpe*. Donques vous dioms qe le condicions ne furent pas tieles com Labbes ad suppose par soun counte, quel ele counta vers J. de S., qar nous vous dioms qe les condicions sour quex lescript fut livere furent tiels, saver qe Labbes Iolente venderoit a W.² en propre person, et amenereit ov luy viij *homines*, &c., qe jurassent, &c., qe cele Iolente et ces predecessours avoient ewe lete, &c., et apres ceo qilias avoient fait le

¹ MS., et.| ² MS., P.

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A.D. 1342. four arbitrators, who should award damages to the Abbess Iolenta for the disturbance which the Abbot of Waltham had made in respect of her holding of the leet, &c., and that if the four could not agree, they should elect a fifth who should be umpire, &c., and that the Abbot of Waltham, or some other person on his behalf, should come to Woodford, &c., and should bring such a deed as that of which she has spoken to be delivered, &c., and that then the writing should be delivered to Bartholomew, and John Hankyn, and should be held to be of no force, &c.¹ And we tell you that, on the day appointed, the Abbot of Waltham came ready to have performed the conditions on his part. Iolenta did not then come, nor did the eight men make oath, nor were the four men elected. And so the conditions were broken on the part of this same Iolenta, and not by the Abbot, &c.; and therefore a right accrued to Bartholomew and John Hankyn to have the writing again delivered to them.—*Stouford*. You are warned solely to answer whether you can say anything wherefore, according to the conditions which the Abbess assigned by her count against John de Sutton, the writing ought not to be delivered to us; and since you do not show that those conditions are performed, we demand judgment.—*William Thorpe*. We are warned to show whether we can say anything wherefore the writing ought not to be delivered to you, and now we have shown why the writing ought not to be delivered to you, and to that you do not answer; wherefore, &c.—*SHARDELOWE*. I was once in such a case that a man had brought his Detinue against another in respect of a writing, and I counted, on his behalf, that the writing had been caused to be delivered to the other on certain conditions; and the latter said that the writing had been delivered to him on other conditions; and I was then compelled to

¹ But see the record in the Appendix.

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serment ils elirroient iiij arbitours, qe agardereint A.D. 1342. damages al Abbes Iolente pur la destourbance quel Labbe de W. lavoit fait pur tener la leite, &c., et, si les iiij ne purroynt mye acorder, qils elirroient le quinte qe serroit nonpiere, &c., et Labbe de W., ou nul autre pur luy, vendreit a W.,¹ &c., et portast un tiel fet come ele ad parle a liverer, &c., qe adonques lescript serroit a B. et J., et de nul force tenu, &c. Et vous dioms qe, al jour assis, Labbe de W. vynt prest daver parforni les condicions de sa part. Iolente donques ne vynt, ne les viij homes ne jurrerent pas, ne les iiij homes ne furent pas esluz. Et issint furent les condicions enfreintz de parte mesme cele Iolente et non pas par Labbe, &c., par quei dreit acrust a B. et J. de reaver lescript lour soit liyerer.—*Stouf.* Vous estes garny seulement a respoundre si vous savez rien dire par quei, solom les condicions quex Labbes assigna par son conte vers J. de S., lescript ne deit mye estre livere a nous; et, de pus qe vous ne moustrez mye ceux condicions estre parfornis, nous demandoms jugement.—*Wills Thorpe.* Nous sumes garni a moustrer si nous savoms rien dire pur quei lescript ne vous deit estre livere, et ore avoms moustru par quei lescript ne vous deit estre livere, a quei vous ne responez pas; par quei, &c.—*SCHAR.* Jeo fu un foyth en tiel cas qun homme avoit porte son detenue dun escript vers un autre, et jeo countai pur luy qe lescript fut fait bailler a lautre sour certains condicions; et il dit qe lescript luy fut baille sour lautre condicions; et

¹ MS., P.

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A.D. 1342. answer to him; and therefore I took the averment in maintenance of my count. And since, then, in your present case, this count which the Abbess counted against John de Sutton was affirmed by him, and, if the conditions had been different, he might have pleaded them in abatement of her count, it seems that you have a day solely to answer, as to those conditions which are affirmed by John de Sutton, whether they are performed or not.—And afterwards SHARDELOWE asked, as to the parties, how they appeared in Court.—*W. Thorpe.* Bartholomew, and John Hankyn, are here by attorney; wherefore we pray that the Abbess be called.—And this was done; and she answered by attorney.—He was asked where he was admitted as attorney; he said that he was admitted as attorney on the Original Writ which was brought against John de Sutton, and that was a sufficient warrant against any one until the plea was determined on the same writ.—*W. Thorpe.* Sir, we pray you to record that he shows no other warrant of attorney as to this *Scire facias*, but only the warrant by which he was made attorney against John de Sutton upon the Original, and that cannot be a warrant of attorney in this *Scire facias* against Bartholomew, and John Hankyn, because, in every case in which any one sues against another, it is necessary that, if his adversary appear, and they have to plead, the person who sues should appear in his own person or by attorney. Now this *Scire facias* is properly at the suit of the Abbess; and since, then, she does not appear either in her own person or by attorney against Bartholomew, and John Hankyn, we demand judgment on her nonsuit.—*Pole.* In a plea of land, if the demandant make his attorney as against the tenant, and the tenant afterwards vouch to warrant, it is not necessary that the demandant make a new attorney against the warrantor, because the warrant of attorney which was made as against the tenant

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jeo fu chace la de respoudre a luy, par qi jeo pris A.D. 1342. laverement en meynenance de moun counte. Et de pus donques qe, en vostre cas si, cel counte quel Labbesse counta vers J. de S. fut afferme par luy, et, si les condicions ussent este autres il les put aver plede [pur] abatre son conte, il semble qe vous avez jour soulement a respoudre a cels condicions qils sount affermes par J. de S., sils soient parfornuz ou ne mye.—Et pus SCHAR. demanda de les parties coment ils furent la.—*W. Thorpe.* B. et J. sunt cy par attourne; par quei nous prioms qe Labbes¹ soit demande.—*Et sic fuit*; qe respondi par attourne.—Demande fut ou resceu attourne; il dit qil fut resceu attourne en le bref original qe fut porte vers J. de S., lequel fut sufficient garrant devers chesqun tanqe le plee fut termine sour mesme le bref.—*W. Thorpe.* Sire, nous prioms² vous recorder qil ne moustre nul altre garrant dattourne a ceste *Scire facias* si non le garrant par quil il fut fait attourne vers J. de S. en le original, lequel ne put nyent estre garrant dattourne en cestre *Scire facias* vers B. et J., qar, en chesqun cas, quant home sue vers un autre, il covyent qe, si soun adversarie veigne, et ils deyvent pleder, qe cesty qe suyt soit en propre person ou par attourne. Ore cest *Scire facias* est proprement alsuyte Labbes; et del hour donques quele nest mye en propre persone ne par attourne vers B. et J., nous demandoms jugement de sa nounsuyte.—*Pole.* En plee de terre, si la demandant face soun attourne vers le tenant, et le tenant pus vouche a garrantir, il ne covynt mye qe le demandant face novel attourne vers le garrantour, qar cele garrant dattourne qe fut fait

¹ MS., Labbe.| ² MS., pernomis.

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A.D. 1342. serves for the demandant until the plea is determined ; so also in this case.—*R. Thorpe*. The suit which is made against the vouchee is at the suit of the tenant, and not at the suit of the demandant ; but in this present case this collateral *Scire facias* is properly at the suit of the Abbess, and not at the suit of John de Sutton.—*Stouford*. In this present case it is necessary that the Abbess, and Bartholomew, and John Hankyn appear in their own persons ; and, before they have appeared in Court and pleaded, no one of them can appear by attorney against the others. Since, then, Bartholomew, and John Hankyn do not come in their own persons, the Abbess ought not to be called as against them, because to their attorney no regard will be had, inasmuch as, in such a case, the admission of an attorney does not lie before appearance, as above. And since the Abbess and John de Sutton are here by attorney, and Bartholomew, and John Hankyn are warned and do not appear, we pray that the writing be delivered to us.—And, the next day, the Abbess, and Bartholomew, and John Hankyn came to the bar in their own persons.—*R. Thorpe*. Sir, we pray you to record that the Abbess was called yesterday on this *Scire facias*, wherefore, Sir, we then prayed judgment on her nonsuit, and we do so again.—*Stouford*. We said yesterday that the Court could not call the Abbess as against John Hankyn and Bartholomew, if they had not appeared in their own persons ; and since they had been warned, and did not appear in their own persons, we demanded judgment for the Abbess, and prayed that the writing might be delivered to us, and so we pray again.—*R. Thorpe*. In such a *Scire facias* as this both parties might appear by attorney, but because the attorneys could not plead the conditions, &c., the Court will tell them that they must cause their principals to come *in propriis personis* on the next day. And so, before either party comes to

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vers le tenant sert pur le demandant tanqe le plee soit A.D. 1342.
 termine; auxi en ceo cas.—*R. Thorpe.* La suyte qest
 fait vers la vouche est a la suyte la tenant, et noun pas
 a la suyte le demandant; mes en ceo cas issi cesti coste
Scire facias est proprement al suyte Labbesse, et noun
 pas al suyte J. de S.—*Stouf.* En ceo cas issi il covynt
 qe Labbesse, [et] B., et J. venissent en propre persone; et
 avant ceo qil eient apparu en Court et plede nul ne put
 estre [par] attourne vers lautre. Pus donques qe B. et J.
 veignent mye en propre persone, devers eux la Abbesse
 ne deit mye estre demande, qar a lour attourne navera
 mye regarde, pur ceo qe lattourne en tiel cas ne git
 nyent avant apparance, *ut supra*. Et de pus qe Labbes
 et J. de S. sunt cy par attourne, et B. et J. sont garniz
 [et] ne veignent mye, nous prioms qe lescrip nous soit
 livre.—Et lendemayn Labbes, et B. et J. vinderent
 a la barre en propre persone.—*R. Thorpe.* Sire, nous
 prioms¹ vous recorder qe Labbes yere fut demande a cest
Scire facias, par quei, Sire, nous priames adonques juge-
 ment de sa nounsuyte, et unqore fesoms.—*Stouf.* Nous
 deymes yere qe la Court ne put mye demandere Labbesse
 vers J. et B., sils nussent venuz en propre persone; et de
 pus qils furent garniz, et ne vynderent mye en propre
 persoun, nous demandames jugement pur Labbesse, et
 priames qe lescrip fut livre a nous, et unqore prioms.—
R. Thorpe. En un tiel *Scire facias* lun partie et lautre
 purreient apparere par attourne, mes pur ceo qe lez
 attournes ne purreint mye pleder les condicions, &c., la
 Court dirra a eux qil facent vener lour mestres en
 propre persone a procheyn jour apres. Et issint, avant
 ceo qe lun partie ou lautre veigne de pleder en propre

¹ MS., pernoms.

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A.D. 1342. plead in his own person, his adversary may well enough appear by attorney against him who appears in his own person; wherefore, since the Abbess did not appear either in her own person or by attorney yesterday, and Bartholomew and John Haukyn appeared here by attorney, it was right that the Abbess should be called on the proffer of the attorney; and she did not come; wherefore, &c.—SHARDELOWE. Certainly we record that neither party came in *propria persona*, but neither default nor nonsuit was recorded against either the one or the other, for neither one nor the other answered by attorney; wherefore, since both are here in their own persons, answer, if you will.—*R. Thorpe* answered, and showed how the conditions were other than the Abbess supposed by her count, as above, and how the conditions were not broken by the Abbot of Waltham, as above.—To this *Stouford* said that Bartholomew, and John Hankyn were warned to show, &c., why the writing should not be delivered to the Abbess in accordance with the conditions which she had assigned in her count against John de Sutton, to which they answered nothing; and (said he) we demand judgment.—*W. Thorpe*. It must necessarily be that Bartholomew and John Hankyn have to maintain the conditions to be such as they were, because, if, after this present time, when Bartholomew and John Hankyn have been warned, the writing should by judgment be delivered to the Abbess, she will recover damages for the detinue, &c., against Bartholomew, and John Hankyn, and not against John de Sutton.—*Pole*. I say No; she will recover damages against John de Sutton—not against the others.—*W. Thorpe*. Certainly you say only what you wish. It is no more so in this case than in a case where one is in a writ of Wardship in which the person against whom the writ is brought says that he claims nothing in the wardship except nurture, &c., and that another person, &c., brings a writ

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persone, soun adversarie put auxi bien estre par attourne A.D. 1349.
 vers luy en propre persone; par quei, de pus qe Labbes
 ayere ne vynt mye en propre persone ne par attourne, [et]
 B. et J. furent cy par attourne, a la profre lattourne il
 covenist qe Labbes fuit demande quel ne vynt pas; par
 quei, &c.—SCHAR. Nous recordoms bien qe ne lun
 partie ne lautre vynt en propre persone, mes defaute ne
 noun suyte ne fut pas recorde ne devers lun ne devers
 lautre, qar lun ne lautre respondi par attourne; par quei
 de pus qe lun et lautre sont cy en propre persone, si
 vous voles, [responez].—*R. Thorpe* respondi, et moustra
 coment les condicions furent autres qe Labbesse supposa
 par soun counte, *ut supra*, et coment¹ les condicions ne
 furent mye enfreynez par Labbe de W., *ut supra*.—A
 quei *Stouf.* dit qe B. et J. furent garniz a moustrer, &c.,
 pur quei lescript ne serreit livere a Labbesse solom les
 condicions quex ele avoit assigne en son counte vers J.
 de S., a quei ilis respondirent rien; et demandoms
 jugement.—*W. Thorpe.* Il covyent a force B. et J.
 seyent de meyntener les condicions tiles com ils
 furent, qar apres cele temps ore qe B. et J. sunt
 garniz, si lescript par agarde soit livere al Abbese,
 ele recovers damages pur la detenue, &c., vers R. et J.,
 et noun pas vers J. de S.—*Pole.* Jeo dy qe noun;
 ele recovers damages vers J. de S.—ne my vers les
 autres.—*W. Thorpe.* Certes vous ditez vostre talent.
 Nyent plus² en ceo qe home fut en bref de Garde ou
 cesti vers qui la bref est porte dit qe il ne cleyme rien
 en la garde forqe nuture, &c., et qe aultre, &c., porte son

¹ MS., covyt.| ² MS., pus.

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A.D. 1342. of Wardship against him in respect of the same wardship, and that he is ready to answer to whom the Court shall direct. In that case it shall be discussed between those who brought their writs to which of them the wardship belongs, and if it be found that the wardship belongs to one and not to the other, the person in whose favour the finding shall be, shall in accordance therewith recover his damages for the deforcement against the person between whom and himself the matter so then is, and not against the other, against whom the Original Writs were brought; so also in this case.—And this was the opinion of the Court.—*R. Thorpe* [*ad idem*]. If the writing be now delivered, by judgment, to the Abbess, since Bartholomew, and John Hankyn are warned, they will never have actions to demand the writing against John de Sutton; and therefore, if we cannot have a plea to show the conditions to be such as they were, we shall, by a bad count which has been counted against John de Sutton, be put to mischief, and that is not the intention of the law.—HILLARY. You say what is true; and it is the opinion of the Court that they shall be admitted to show that the conditions were other than the Abbess supposed by her count.—Wherefore *Stouford* came, the next day, and said that the conditions on which, &c., were such as the Abbess supposed by her count, and not such as Bartholomew, and John Hankyn had said; ready, &c.—And the other side said the contrary.—And, when they were at issue, they made their attorneys on both sides on the same roll on which the plea was pleaded.—There was some discussion on this subject, and it was said that they could not be by attorney before they had pleaded and joined issue on the conditions, as the opinion of the Court was, as above.

Writ of
Annuity.

(33.) § Nicholas de Cantebrigge, clerk, brought a writ of Annuity against the Abbot of Croyland.—

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bref de Garde vers luy de mesme la garde, et qe il est A.D. 1342. prest de respoudre a qi qe la Court, &c. La serra discus entre ceux qe porterent lour brefs a qi deux la garde appent, et si trove soit qe la garde appent a lun et noun pas a lautre, celuy pur qi il serra trove par la manere recoversa ces damages pur le deforcement vers cesty entre qi et luy la chose est issint donques, et noun pas vers lautre vers qi le brefs originals furent portes; auxint en ceo cas.—Et ceo fut oppinion de la Court.—*R. Thorpe [ad idem]*. Si lescript soit ore livre, par agarde, a Labbes, de pus qe B. et J. sount garniz, ils naverount jammes accions a demandere lescript vers J. de S.; par quei, si nous ne pussoms aver plee a moustrer condicions tils com ils furent, par un malveis counte qe fut counte vers J. de S., nous serroms mys a mescheif, laquel la ley ne voileit pas.—HILL. Vous ditez verite; et oppinion de Court qils serrount resceuz de moustrer qe les condicions furent altres qe Labbesse ne supposa par soun counte.—Par quei *Stouf.* lendemayn vynt, et dit qe les condicions sour quex, &c., furent tiels com Labbesse supposa par son conte, et noun pas tiels com B. et J. avoient dit; prest, &c.¹—*Et alii e contra*.—Et, quant ils furent a issue, ils firent lour attournez lun partie et lautre en mesme le roule la ou le plee fut plede.²—Parle *super hoc*, et dit fut qils ne purreient estre par attourne avant le plee et furent a issu sour les condicions, *ut opinio fuit, ut supra*.

(33.)³ § Nichole⁴ de Cantebrigge, clerk, porta bref Bref de⁴ dannuite vers Labbe de Croiland.⁵—*Gayn.* Lespecialte Annuite.

¹ MS., pur ceo instead of prest, &c.

² See the record printed in the Appendix.

³ From T., 16,560, 25,184, and Harl., until otherwise stated, but corrected by the record *Placita de Banco*, Trinity, 16 Edw. III., R^o. 162. It there appears that the

action was brought by Nicholas de Cantebrigge, of York, against the Abbot of Croyland, in respect of an annuity of 40s.

⁴ The words Bref de are from T. alone.

⁵ T., Johan; 25,184, Chaunc.

⁶ 25,184, Crouland.

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A.D. 1342. *Gaynesford*. The words of the specialty are "until he be advanced to a benefice, &c."; and we tell you that on such a day, in such a year, and at such a place, in the presence of such persons, we tendered to him the vicarage of B., which is worth so much, and which was vacant, and of our patronage, and he refused it, and so the annuity is extinguished; judgment.—*R. Thorpe*. We tell you that by one of his monks he sent to us such a presentation, which he tendered to us, and we would have taken it, and the monk would not deliver it to us, but carried it away; judgment whether by such a tender he can extinguish the annuity.—*W. Thorpe*. That is tantamount to saying that we did not tender, because that which you speak of is not a tender.—*R. Thorpe*. It is a tender in words, but not in effect; and therefore you shall not have a general averment to blind the jury.—*SHARDELOWE*. Your issue must be on the refusal, for it is that which extinguishes the action.—*W. Thorpe*. If he say that he did not refuse, then our tender will be held as not denied, in which case he will not be admitted to aver the non-refusal, unless it be by a cause assigned; wherefore the issue shall be on the tender, which we will maintain.—*R. Thorpe*. The traverse should be taken on that which we did; and we tell you as above; and thus we did not refuse his presentation; ready, &c.—*W. Thorpe*. We tendered as above, and you refused; ready, &c.—And the other side said the contrary.—And note that the fact alleged shall be entered.

Annuity. § Nicholas de Cantebrigge, of York, brought his writ of Annuity against the Abbot of Croyland, and

And note that this tender of a presentation, of which mention was made, although it was made in fact, shall not be adjudged a tender in law. So note the issue in this plea.

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voet tanqil soit avance a benefice, &c. ; et vous dioms qe A.D. 1342.
 tiel jour,² an, et lieu, en presence de tieux, nous luy *Et nota,*
 tendimes la vicarie de B,³ qe vaut taunt, et qele fuit *ceo tendre*
 voide et de nostre avoweson,⁴ quel il refusa, et issi *del pre-*
 lannuite est⁵ esteint; jugement.—*R. Thorpe.* Nous *sentement,*
 vous dioms qe par un soun moigne il nous maunda un *quel fuit*
 tiel presentement, le quel il nous tendist, et nous le *parle,*
 voleymes⁶ aver pris, et il nel voleit pas liverer a nous, *mesqe ceo*
 mes lemporta; jugement si par tiel tendre puisse lan- *fuit en fait,*
 nuite esteyndre.—*W. Thorpe.* Taunt amounte qe nous *ne serra*
 tendimes⁷ pas, qar ceo qe vous parlez nest pas tendre. *mie juge*
tendre en
lay. Sic
nota lissu
de ce ple.¹
R. Thorpe. Cest tendre par paroule mes nient en
 effect; par quei vous naverez pas general averement
 daveogler⁸ pais.—SCHARD. Vostre issue covient estre⁹
 sur le refuser, qar ceste la chose qe esteint accion.—
W. Thorpe. Sil die qil ne refusa pas, donqes nostre¹⁰
 tendre serra tenu nient dedit, en quel cas il ne serra pas
 resceu daverer le nient refuser sil ne soit par cause; par
 quei sur le tendre lissue se fra, quel nous voloms
 meyntener.—*R. Thorpe.* Sur nostre fait covient prendre
 le travers; et vous dioms *ut supra*; et issi ne refusames
 nous pas soun presentement; prest, &c.—*W. Thorpe.*
 Nous tendimes *ut supra*, et vous refusastes; prest, &c.—
Et alii e contra.—*Et nota* qe le fait¹¹ allegge serra
 entre.

§ Nicol¹² de Cantebrigge, de Everwike, porta son Annuyte.
 bref dannuyte vers labbe de Crowellande, et demanda

¹ The words of the marginal note after Annuite are from 25,184 alone.

² jour is omitted from 25,184.

³ Freiston-by-Skirbeck (Lincolnshire), assessed at the annual value of 22 marks, and being of the true annual value of £20, according to the roll.

⁴ 16,560, donesoun; Harl., donisoun.

⁵ est is from T. alone.

⁶ 16,560, vodroms; Harl., vodrioms, instead of le voleymes.

⁷ Harl., tendissoms.

⁸ T., daccoigler; 16,560, davoegler; Harl., davoyeler.

⁹ 19,560 and Harl., estre pris.

¹⁰ 25,184, vostre.

¹¹ 25,184, pleint.

¹² This report of the case is from L. alone.

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A.D. 1342. demanded against him certain arrears, which were in arrear to him, of a certain annuity that the Abbot and Convent of Croyland had granted to him until they had provided him with some suitable benefice of Holy Church; and he made *profert* of their deed which witnessed this.—*Gaynesford*. Sir, we tell you that the Abbot on such a day in such a year, in the presence of such an one and such an one, at K., tendered to him a presentation to the vicarage of Freiston in the county of Lincoln, which was then void, and of the patronage of this same Abbot, which is valued at 20 marks per annum, and which is a suitable benefice, &c.; and this same Nicholas refused this presentation, for which reason this annuity was extinguished in his person; and we demand judgment whether he is in a condition to be answered.—*Rokele*. Sir, we tell you that, on the same day that he mentions, the Abbot sent one H., his co-monk, with this presentation, to K., which H. came and tendered to Nicholas this presentation by words, and Nicholas would have accepted it, and H. carried this presentation away with him, and would not permit Nicholas to have this presentation, and so Nicholas did not refuse this presentation; ready, &c.—*W. Thorpe*. That which you call a tender is not a tender, and therefore that which you say amounts to no more than that the Abbot did not tender, &c.; and we will aver that he did.—*R. Thorpe*. We have acknowledged a kind of tender such that, in case we were to take the general averment that the Abbot did not tender to us, &c., perhaps the inquest would pass against us, because lay people might suppose that it was a tender; wherefore it seems that, in this case, the issue ought naturally to be taken on the refusal.—*Stouford*. When a presentation is tendered, there is no mesne between acceptance and refusal; wherefore, if the issue is to be taken on the refusal, then it is to be understood in law that there was a

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devers luy certains arrerages, qi arrere luy furent, dun A.D. 1342.
 certeyn annuyte quel Labbe et le Covent de C. ly avoient
 grante tanqilis lussent purvewe dasqun covenable bene-
 fice de Seynt Eglise; et mist avant lour fet qe ceo tes-
 moygna.—*Gayn.* Sire, nous vous dioms qe Labbe, tiel jour
 tiel an, en la presence un tiel et un tiel, a K., ly tendist
 la presentement de la vicarie de Fryston en le counte de
 N.,¹ qe adonques fut voide, et del patronage mesme cesti
 Abbe, laquel est estendu a xx marcs par an, le quel est
 covenable benefice, &c.; et mesme cesti Nicol cel pre-
 sentement refusa, par quei cele annuyte fut estente en
 sa persone; et demandoms jugement sil purra estre
 respondu.²—*Rokel.* Sire, nous vous dioms qe, a mesme
 la jour quel il parle, Labbe maunde un H. son comoigne,
 ov cel presentement, a K., le quel H. vynt et luy³ teyndist
 cele presentement par paroule, et Nicol le volet aver
 resceu, et H. lenporta ov luy, et ne luy voleit sufferire
 cele presentement aver, et issint ne refusa il pas cele
 presentement; prest, &c.—*W. Thorpe.* Ceo qe vous
 appelez tendre nest my tendre, par quei vostre dit ne
 amount a nul plus mes qe Labbe ne tendist pas, &c., et
 nous voloms averer qe cy.—*R. Thorpe.* Nous avoms
 conu un manere de tendre tiel quel, en cas si nous
 preissoms averement generale qe Labbe nous tendit
 pas, &c., par cas lenquest passereit contre nous pur ceo
 qe lay gens supposent qe ceo fut un tendre; par quei il
 semble qe lissue en ceo cas doit estre prise naturellement
 sour le refusere.—*Stouf.* Quant un presentement est
 tendu ilia nul men entre le accepter et le refuser; par
 quei, si lissue deit estre prise sour la refuser, donques
 deit ley entendre qil avoit un tendre et vous ne le

¹ MS., S.³ MS., le.² MS., respondere, instead of
estre respondu.

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A.D. 1342. tender and that you did not refuse it, and consequently that it was accepted ; wherefore, &c.—And thereupon the parties went from the bar, and the Court caused the issue to be entered as *Rokele* had previously said, to wit, that H. tendered the presentation to Nicholas by words, and that Nicholas would have accepted it, and that H. carried it away, &c., and so that Nicholas did not refuse it.—And the other side said the contrary.—And thereupon both sides demanded that the matter should be entered, and that a day should be given to them, because, if the issue had been taken solely on the tender, the jury might easily have been misled by a tender by parol.

Replevin : (34.) § Margaret de Cary complained against John la
 Avowry Warre, in respect of her beasts, to wit two oxen, taken,
 for more &c.—*W. Thorpe*. John avows the taking of sixteen
 beasts &c.—*W. Thorpe*. John avows the taking of sixteen
 [than are oxen, and for the reason that William de Leykesworth
 mentioned held the manor of Leykesworth of John Tregoz by
 in the de- homage, fealty, and escuage, &c., and by the service of
 claration]. finding two esquires armed for the ward of his castle of
 Note. Ewyas Harold, from such a day to such a day, from year
 to year, at his own cost, of which services, &c. ; whereof
 the descent was from John Tregoz to Clarice and

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refuseustez mye, donques l'accepte; par quei, &c.—Et sour A.D. 1342.
 ceo les parties alerent de la barre, et la Court fist
 entrer l'issue com *Rokel* avoit dit devant, saver qe H.
 tendist le presentement par paroule a N., et il le voleit
 aver resceu, et H. lenporta, &c., et issint ne le refusa il
 mye; prest, &c. *Et alii e contra*.¹—Et sour ceo ils
 demanderent l'entrer dun part et daltre, et lour doner jour,
 pur ceo qe, [si] l'issue ust este pris soulement sour le
 tendre, la pays par un tendre par paroule put legerement
 aver este envigle, &c.

(34.)² § Margarete de Cary⁴ se pleynt vers Johan la *Reple-*
 Warre de ses avers, saver deux boefs, pris, &c.—*giari:*
W. Thorpe. Johan avowe la prise de xvj boefs, et par *Avowerie:*
 la resoun qe William de Leykesworth⁵ tynt le maner de *pur plu-*
 Leykesworth⁶ de Johan Tregoz⁷ par homage, feaute, et *sours*
 escuage, &c., et par les services de trover deux esquiers *bestes.*
 armes pur la garde de soun chastel de Ewes, de tiel jour *Nota.*⁸
 tanqe tiel jour,⁸ dan en an, a ses coustages propres, des
 queux services, &c.; dount de Johan de Tregoz⁷

¹ According to the roll, issue was joined on the replication, which was that the co-monk (Orger by name) came to Cottenham church, and showed the plaintiff a presentation to the vicarage, saying that the Abbot presented him thereto. The plaintiff asked that the presentation should be delivered to him. Orger would not deliver it, but took it away, and so the plaintiff did not refuse to accept it as alleged. Nothing further appears, except the award of the *Venire*.

² From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 139. It there appears that the action was brought by

Margaret de Cary against Nicholas Wyld, Thomas de Wyke, and John la Warre, of whom the last named avowed for himself and the others.

³ *Replegiari* is from T. alone. The words *Avowerie pur plusours bestes* are from 25,184, in which also there is a longer passage no longer legible. *Nota* is from 25,184 and Harl.

⁴ T., Caro; 16,560 and Harl., Kare; 25,184, Karie.

⁵ MSS. of Y.B., Legworthe.

⁶ MSS. of Y.B., B.

⁷ 25,184, Tregoyz.

⁸ The words *tanqe tiel jour* are omitted from 25,184.

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A.D. 1342. Sibyl as to two daughters; and, because the castle of Ewyas Harold was held *in capite* of the King, after John's death, the King seized all the lands, &c. And from Clarice the descent was to John la Warre as to son, so that in the Chancery a partition was made between Sibyl and John, in such a manner that the castle of Ewyas Harold and the fee of A., to which the services of William were regardant, were allotted to John la Warre. From William the demesne descended to Thomas de Leykesworth as son; and because the homage and the fealty were in arrear after the death, &c., and the services for the ward of the castle for thirty-four years before the day of the taking, for the homage in arrear he avows as to four oxen, and for the fealty as to four other oxen, and for the ward of the castle as to all the rest of the oxen, upon Thomas as upon his very tenant.—*Derworthy*. We will maintain that he took two oxen only, and that what he calls the manor of Leykesworth is only one messuage, two carucates of land, and 10s. of rent, and that William held this of John Tregoz by homage, fealty, escuage, and the service of 3s. 6d. for all services; and it is quite true that partition was made as above; and we tell you that William gave the fifth part of that tenancy to Maud his daughter, to hold of the chief lord,

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descendirent a Clarice¹ et Sibylle² come a deux filles; A.D. 1342.
et pur ceo qe le chastel de Ewes fuit tenuz en chef du
Roi, apres la mort Johan, le [Roi seistot totes les
terres, &c. Et de Clarice¹ descendi a Johan la]³ Warre
come a fitz, issint qen Chauncellerie entre Sibylle² et
Johan purpartie se fist, issint qe le chastel de Ewes et le
fee de A., a quel les services W. furent regardauntz,⁴
furent allotes a Johan la Warre. De William descendi le
demene a Thomas de Leykesworth⁵ come a fitz; et pur
ceo qe lomage et la fealte furent arere apres la mort, &c.,
et les services pur la garde du chastel par xxxiiij⁶ aunz
avant le jour de la prise, pur lomage arere si avowe
il⁷ en dreit de iiij boefs, et pur la fealte⁸ en dreit
dautre iiij, et pur la garde du chastel en dreit⁹ de tut
le remenant, &c. [sur Thomas¹⁰ com sur son, &c.]¹¹—
Derworthi. Nous voloms meyntener qil ne prist forsque
deux boefs, et ceo qil appelle le maner de Leykesworth¹²
ceo nest forsque un mies, deux carues du terre, et xs. de
rente, et ceo tynt W. de Johan Tregoz par homage,
fealte, et escuage, [et les services de iijs. vjd.]¹³ pur
touz services; et bien est verite qe¹⁴ la purpartie *ut*
supra; et vous dioms qe W. [dona la quinte partie de
cele tenance a Maude sa fille a tener de chief seignur, et

¹ MSS. of Y.B., Maude.

² MSS. of Y.B., Isabelle. The real names are from the record.

³ The words between brackets are omitted from 25,184.

⁴ In the record the words "et le fee de A. a quel les services W. furent regardaunts" are represented by the words "una cum servitiis exeuntibus de prædicto manerio de Leykesworth et aliis terris et tenementis."

⁵ MSS. of Y.B., Johan Legworthe instead of Thomas de Leykesworth.

⁶ 25,184, xxviiij.

⁷ The words si avowe il are omitted from T. and 25,184.

⁸ MSS. of Y.B., rents.

⁹ The words en dreit are from T. alone.

¹⁰ 16,560, J.; Harl., Johan.

¹¹ The words between brackets are omitted from T. and 25,184.

¹² MSS., B.

¹³ The words between brackets are not represented in the record, but there are added the words *ut de manerio prædicti Johannis Tregoz de Burnham.*

¹⁴ Harl., conust, instead of est verite qe.

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A.D. 1342. and then gave the residue to one Thomas, who by fine rendered the same tenements to William and Margaret his wife, the present plaintiff, for their lives, to hold of the chief lord, and limited the remainder over (and *Derworthy* made *profert* of a part of the fine)—and thus Margaret is now your tenant, and she has often tendered to you the due proportion of the services; judgment whether you can avow on any one else.—*Thorpe*. You see plainly how she estranges herself from our avowry and makes herself the assignee of an assignee, and affirms that there is no privity between her feoffor and us, and does not show that by right less services are due than we have supposed by our avowry, and she has not denied our seisin which is title to a lord; and she has not alleged that she has tendered in accordance with that for which we have avowed; and also she appears by attorney, whereas her plea does not lie in her mouth to speak of a tender, unless she say that she has always been ready and still is ready to render the services; and this an attorney can not do, particularly the homage; wherefore we pray our damages.—*Pole*. As to traversing the seisin, that does not lie in our mouth until you have made a good avowry upon us, and in such a manner that we are made privy; and I say that the twentieth assignee can tender well enough when he is enfeoffed to hold of the chief lord; and though we speak of tendering services you can

No. 34.

puis]¹ dona le remenant a un T.,² le quel par fyne rendit A.D. 1342. mesmes les tenementz a W.³ et Margarete sa femme, qest ore pleyntif, a lour vies, a tener du chief seignur, et tailla outre le remeyndre:—et moustra partie de la fyne;—et issi est M.⁴ ore vostre tenant, et sovent pur lafferant⁵ vous ad tendu des services; jugement si sur altre puissez⁶ avower.—*Thorpe*. Vous veiez bien coment ele estraunge a nostre avowerie et se fait assigne dassigne,⁷ et afferme nul privity entre soun feffour et nous, et ne moustre pas en dreit qe meyndres services sount dues qe nous avoms suppose pas nostre avowerie, et nostre seisine nad pas dedit, quele est title au⁸ seignur; et ele nad pas allegge qe ele ad tendu⁹ solonc ceo qe nous avoms avowe; et auxi ele est par attourne, ou soun plee ne gist pas en sa bouche de parler de tendre, si ele ne dit qe ele ad este tut temps prest et unquore est prest¹⁰ de rendre¹¹ les services; et ceo poet nient¹² attourne faire, et nomement homage¹³; par quei nous prioms nos damages.—*Pole*. Quant a traverser la seisine, gist pas en nostre¹⁴ bouche tanqe vous averez fait¹⁵ bon avowerie sur nous, et issi qe nous soioms fait prive;¹⁶ et jeo die qe le xx^{me} assigne poet assez bien tendre la ou il est feffe a tenir de chief seignur; et tut parloms¹⁷ de tendre des services vous le poez pas rescayvre a ore.¹⁸

¹ The words between brackets are omitted from 25,184.

² MSS. of Y.B., B. The person was Thomas, vicar of Bishop's Lydyard, as appears by the record.

³ 25,184 and Harl., B.

⁴ T. and 25,184, K. The initial is omitted from 16,560 and Harl.

⁵ Harl., laffermant.

⁶ Harl., purres.

⁷ dassigne is omitted from 25,184.

⁸ 25,184, a soun.

⁹ The words qe ele a tendu are omitted from Harl.

¹⁰ prest is omitted from 25,184.

¹¹ All the MSS., except Harl., tendre.

¹² Harl., nul.

¹³ The words et nomement homage are omitted from Harl.

¹⁴ T., vostre.

¹⁵ fait is omitted from 16,560 and Harl.

¹⁶ T., partie.

¹⁷ Harl., puis.

¹⁸ In Harl. are added the words avant la prise, et tut temps prest fuistes et unquore estes, &c., si vous ne fustes en propre persone.

No. 35.

A.D. 1342. not accept the tender now.—*Thorpe*. What of that?
 See above, Easter Term in the second year, in respect of like matter.¹ Suppose we were to avow for your own homage, and you were to say that you tendered it before the taking, and had always been ready and still are ready, yet if you were not present in your own person you would not have the plea; and moreover if you were present in your own person the homage would not be done on a Replevin.—*HILLARY*. In that case she would be party by the avowry; not so here.—*Thorpe*. We understand this, that if she did not tender whatever is due to us, she will not compel us to avow on her.—*HILLARY*. That is true.—*Thorpe*. Then, inasmuch as she does not deny our seisin, and she does not show by specialty that less is due, and she does not tender in accordance with the avowry, judgment.—*Pole*. Your false avowry does not deprive me of the right to answer as to the seisin.

Waste, where, by a grant in general terms, all

(35.) § Waste, brought against a tenant by the curtesy of England, on the ground of an assignment of the reversion. And he made *profert* of a deed of grant which purported "I have given and granted all my lands and

¹ The reference is probably to some case not yet printed, as the published reports of Easter Term

2 Edw. III. are only eleven in number.

No. 35.

—*Thorpe*. De ceo quei ? Jeo pose qe nous avowassoms pur vostre homage demene, et vous deissez qe vous tendistes avant la prise, et tut temps prest fuistes et unquore estes, et si vous ne fuissez en propre persone vous naverez pas le plee; et unquore tut fuisses en propre persone lomage ne serra pas fait en le *Replegiari*.
 —*HILL*. La serroit il partie par lavowerie; *non sic hic*.—*Thorpe*. Nous entendoms ceocy, sil ne tendi quant qest due a nous, il ne nous² chacera pas davower sur luy.—*HILL*. Cest verite.—*Thorpe*. Donques, desicome il³ ne dedit pas nostre seisine, ne il⁴ ne moustre pas qe meyns soit due par especialte, ne il ne⁵ tende pas accordaunt al avowerie, jugement.—*Pole*. Vostre faux avowerie ne toude qe jeo ne puisse respondre a la seisine.⁶

(35.)⁷ § Wast, vers tenant par ley Dengleterre, par voie dassignement de reversion; et moustra fait⁸ del graunt, qe voleit *Dedi et concessi omnia⁹ terras et tenementa*

A.D. 1343.
Vide supra, Pasche secundo, de tali materia.¹

¹ The marginal note is from 25,184 alone.

² The words il ne nous are omitted from 16,560 and Harl.

³ 16,560 and Harl., Depuis qil, instead of Donques, desicome il.

⁴ il is omitted from T. and 25,184.

⁵ The words il ne are omitted from T. and 25,184.

⁶ The plea ends in the record as follows:—"cui quidem Johanni "servitia sua pro prædictis quatuor "partibus contingentia sæpius obtulit, &c.; et petit judicium si "idem Johannes la Warre captio- "nem illam super alium quam "super ipsam sic tenentem suam, "pro servitiis de prædictis quatuor "partibus exeuntibus, advocare "debeat."

Nothing further appears, except adjournments.

⁷ From T., 16,560, 25,184, and Harl. (until otherwise stated), but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., Ro. 184. It there appears that the action was brought by John son of Thomas de Lutelton against William de Whitton. The charter of which *profert* was made was executed by Nicholas de Whitton, who was son and heir of Rohesia, late wife of the defendant; and he thereby "*concessit et confirmavit* "Thomæ de Litlington "omnes terras et tenementa . . "quæ habuit in Wardene in comi- "tatu Bedefordie, quæ sibi descen- "derunt hereditarie post mortem "Roesiæ matris suæ," in fee, with warranty.

⁸ fait is omitted from Harl.

⁹ 25,184, omnes.

No. 35.

A.D. 1342. "tenements in Warden to Thomas and his heirs." And it was the heir of Thomas who now brought this writ; and he was an infant under age.—*Pole*. He claims the reversion as heir of the purchaser in virtue of a grant of the reversion, and the deed does not prove any grant of the reversion.—*W. Thorpe*. We have nothing else to show the grant, and that plea is to our action, and you do not deny that in virtue of that grant you attorned; judgment.—*Pole* did not dare to abide judgment, but said that he did not attorn; ready, &c.—And the other side said the contrary.

the lands
and tene-
ments were
granted,
and the
attorn-
ment was
traversed.
See.

Waste.

§ John son of Thomas de Lutelton brought his writ of Waste against William de Whitton.—*Rokele* counted that William had committed waste in certain tenements which he held by the curtesy of England after the death of one Rohesia, who was the wife of the aforesaid William, and alleged an assignment which Nicholas son and heir of this same Rohesia made thereof to the father of this same John whose heir he is. And *Rokele* did not count that William attorned, &c., which was strange.—*Quære* whether the count was good.—*Blaykeston*. What have you to prove the assignment?—*Rokel* made *profert* of a deed which purported that Nicholas gave, granted, and confirmed to Thomas and his heirs all the lands and tenements in Warden which descended to him by inheritance after the death of Rohesia his mother, and said further that in virtue of the same deed William attorned.—*Blaykeston*. We do not admit any attornment in that manner, &c. But, Sir, you see plainly how the deed of which he makes *profert* supposes a gift and a

No. 35.

*mea*² in *W.*³ a *T.*⁴ et *heredibus suis*, qi heir porte ore le bref, et fuit enfaunt deinz age.—*Pole.* Il cleyme reversion com heir de purchaceour par graunt⁵ de reversion, et le fait ne prove nul graunt de reversion.—[*W. Thorpe.* Altre chose navoms del graunt],⁶ et ceo plee est a nostre accion, et vous ne dedites pas qe par force de cele graunt⁷ vous attournastes; jugement.⁸—*Pole* nosa demurer, mes⁹ dit qil nattourna pas; prest, &c.—*Et alii e contra.*

A.D. 1342.
terra et tenementa,
et attournement
traverse.
*Vide.*¹
[*Fitz., Graunte,*
55.]

§ Johan¹⁰ fitz T. de Luteltone¹¹ porta son bref de Waste vers W. de Wittone.—*Rok.* conta qe W. avoit fait wast de certains tenements¹² quex il tient par la curteisie Dengleterre apres la mort un R. qe fut la¹³ feme dil avant dit W.¹⁴ del assignement quel N.¹⁵ fitz et heir mesme celuy R. de ceo en fist a pere mesme cesti J. qi heir il est. Et il ne conta pas qe W. attourna, &c., *quod mirum fuit.*—*Quære* si le counte fut boun.—*Blaik.* Quei avez del assignement?—*Rokel* mist avant un fet quel voleit qe N.,¹⁵ dona, granta, et confirma a T.¹⁶ et a ces heirs tutes les terres et tenementz en W.¹⁷ le quex luy descendirent¹⁸ hereditairement apres la mort R. sa mere, et dit outre qe par force de mesme la fet W. attourna.—*Bleik.* Nous ne conisoms nul attournement par la manere, &c. Mes, Sire, vous veiez coment le fet quel il mette avant qe suppose un doun et

¹ The words of the marginal note after 'Wast' are from 25,184 alone. There is a slightly different side note in Harl.

² *mea* is omitted from T. and 25,184.

³ T., B.; Harl., A.B.

⁴ T., A.; 16,560, A.B.

⁵ Harl., garaunt.

⁶ The words between brackets are omitted from 25,184.

⁷ Harl., garrant.

⁸ T. and 25,184, &c., instead of judgement.

⁹ 25,184, et.

¹⁰ This report of the case is from L. alone.

¹¹ MS., Wyttonne.

¹² MS., temps.

¹³ MS., sa.

¹⁴ MS., J.

¹⁵ MS., R.

¹⁶ MS., J.

¹⁷ MS., A.

¹⁸ MS., escheyterent.

No. 36.

A.D. 1342. transmutation of possession, which cannot be called an assignment; and so he shows nothing which makes him entitled to an answer; and therefore we demand judgment, &c.—And at a day given *Pole* did not dare to abide judgment, and said that William did not attorn; ready, &c.—And the other side said the contrary.—*Quære*, if the Court had adjudged that John ought to be answered by reason of that deed, whether the other could afterwards have denied the attornment.

Attachment on Prohibition. And note that, where a Bishop is a party, his letter of excommunication does not run, as appears above in Hilary Term in the fifth year,¹ and Michaelmas Term in the eighth.²

(36.) § Thomas de Haselshawe brought an Attachment on Prohibition against the Bishop of Bath and Wells, for that contrary to the King's Prohibition delivered to him, &c., he drew the plaintiff into a plea in Court Christian, and excommunicated him, and enjoined him to go for three Sundays round the church of Wells, and caused him to be beaten.—*Derworthy*. He ought not to be answered, because he is excommunicated.—*SHARDELOWE*. Whose letter do you produce in witness thereof?—*Pole*. The letter of the same Bishop heretofore in this Court allowed against him and enrolled, which put without day a parol wherein this same

¹ Y.B., H. 5 Edw. III., No. 27, fo. 8.

² Y.B., M. 8 Edw. III., No. 37, fo. 69.

No. 36.

transmutacioun de poession, la quel chose ne put estre A.D. 1842.
dit assignement; issint ne moustra il rien qe ly fait
responsible; par quei nous demandoms jugement, &c.—
Et pus a un jour *Pole* nosa mye demurer, et dit qe W.
ne sattourna pas; prest, &c.—*Et alii e contra*.—*Quære*,
si la Court ust agarde qe J. ust este respounable par cel
fait, si apres lautre poet aver dedit lattournement.

(36.)¹ § T. de H.² porta Attachement sur la Prohi-
bicion⁴ vers Levesqe de Bath⁵ et de Welles, de ceo qe
countre la prohibicion⁴ le Roi a luy livre, &c., luy treit
en plee en la Court Christiene, et lescomengea, et luy
enjoint daler par trois dymaignes⁶ autour leglise de W.⁷
et ipsum fustigari⁸ fecit.—*Derworthi*. Il ne deit estre
respondu, qar il est escomenge.—SCHARD. Qi lettre
mettes vous avant de ceo tesmoigner?—*Pole*. La lettre
mesme Levesqe altrefoitz ceinz countre⁹ luy allowe et
enroule, et qe mist un¹⁰ paroule saunz jour ou mesme

Attache-
ment sur
la Prohi-
bicion. *Et*
nota, la ou
Levesque
est un
partie, sa
lettre des-
comenge-
ment ne
court mie,
ut patet
supra,
H. v.,
M. viij.²
[*Fits., Ex-*
comenge-
ment, 5.]

¹ From T., 16,560, 25,184, and
Harl. (until otherwise stated), but
corrected by the record, *Placita de*
Banco, Trinity, 16 Edward III.,
Ro. 213. It there appears that the
action was brought by Thomas de
Haselshawe against Ralph, Bishop
of Bath and Wells. The plaintiff
alleged that, as attorney of Master
Thomas de Haselshawe, parson of
the church of Chew (Somerset), he
had prosecuted an action of Tres-
pass *quare clausum fregit* against
the Bishop, before Justices of Oyer
and Terminer. The Bishop had
caused him to be cited to answer
before himself or his Commissary
in the parish church of Chew,
whereupon a writ of Prohibition
issued. The Bishop nevertheless
caused him to be cited again, "et
" ipsum Thomam, tanquam liber-
" tatis ecclesiasticæ violatorem,
" circa matricem ecclesiam Wellen-

" sem, tribus diebus dominicis
" fustigari fecit." He claimed
£1,000 damages.

The Bishop pleaded "quod ipse
" non fecit prædictum Thomam
" vocari coram ipso Episcopo, nec
" ipsum Thomam circa ecclesiam,
" &c., fustigari fecit," and issue
was joined thereon.

² The words of the marginal note
after Prohibition are from 25,184
alone. There is a somewhat
different side note in 16,560.

³ The words de H. are omitted
from T. and 25,184.

⁴ 25,184, prohibition.

⁵ T., Baas; 25,184, Baa.

⁶ 25,184, simoignes.

⁷ MSS. of Y.B., A.

⁸ 16,560 and Harl., *fustigare*.

⁹ Harl., conustre.

¹⁰ T., la; the word is omitted
from 25,184.

No. 37.

A.D. 1342. plaintiff was party.—SHARDELOWE. At any rate you show nothing now.—*Pole*. There is no need to do so any more than in a case of certification of bastardy.—SHARDELOWE. The cases are not similar, for the certification is a thing tried once for all; besides, you know very well that the Bishop himself is a party.—*Pole*. What of that? If the plaintiff be excommunicated for anything else than for this suit, &c., he shall not be answered.—*Thorpe*. What you say is wrong.—And afterwards *Derworthy* denied the damages.

Formedon in the Descender. And note that possession gives a cause of voucher. See below, Michaelmas Term in the 17th year, against W. Vaghan, and J. his wife, in respect of like matter.¹

(37.) § Formedon in the Descender against Joan late wife of Thomas de la Ryvere, who vouched as to parcel.—*Blaykeston*. He who is vouched disseised the tenant, and the tenant freshly re-entered, without this that he or any of his ancestors ever had any other possession; judgment.—*HILLARY*. You have admitted the seisin. Let the voucher stand.—And as to the residue, she vouched John son of Thomas de la Ryvere, and E. his wife.—*Blaykeston*. We tell you that Thomas de la Ryvere, then husband of the lady, leased the same tenements, which were of the right of his wife, and which estate she had by gift from our ancestor, to the same John and E. who are vouched, for the life of the said Thomas; and we tell you that, after the death of Thomas, she entered into her first estate which she had by gift from our ancestor; judgment whether

¹ Y.B., M. 17 E. III. No. 8, fo. 46.

No. 37.

cesty fait partie.—SCHARD. A meyns vous ne moustrez rien¹ aore.—*Pole*. Ne covient pas nynt plus qen cas de² certificacion de bastardie.—SCHARD. Nient semblable, qar certificacion est chose trie pur touz jours; ovesqe cella, vous savez bien qe Levesqe est mesme partie.—*Pole*. De ceo quei?³ Sil⁴ soit escomenge pur altre chose qe pur ceste suyte, &c., il ne serra pas respondu.⁵—*Thorpe*. Vous dites mal.—Et puis *Derworthi* defendi les damages.

(37.)⁶ § Doun en⁸ Descendere vers Johane qe fuit la femme Thomas de la Ryvere, qe⁹ voucha de parcelle.¹⁰ —*Blaik*. Celuy qest vouché disseisi le tenant,¹¹ et frechement il reentra,¹² saunz ceo qe luy ou nul de ses auncestres unqes altre possession¹³ eurent¹⁴; jugement.¹⁵—HILL. Vous avez conu la seisine. Estoise le voucher.—Et quant al remenant ele voucha Johan fitz Thomas de la Ryvere, et E. sa femme.—*Blaik*. Nous vous dioms qe Thomas de la Ryvere, adonqes baroun la feme,¹⁶ mesmes les tenementz, qe furent del droit sa femme, quele estat ele avoit del doun nostre auncestre, lessa a mesmes ceux Johan et E. qe sount vouches, a la vie le dit Thomas; et vous dioms qe, apres la mort Thomas, ele entra en soun primer estat quele ele avoit del doun nostre auncestre;

Descendere. *Et nota* qe possession donne cause de voucher. *Vide infra*, M. xvij., vers W. Vaghan et J. uxorem ejus, de tali materia.⁷ [Fitz., Counterplee de Voucher, 37.]

¹ rien is omitted from Harl.

² The words cas de are omitted from T. and 25,184.

³ 16,560 and Harl., Poet estre, instead of De ceo quei.

⁴ 16,560, qil.

⁵ Harl., resceu.

⁶ From T., 16,560, 25,184, and Harl. See No. 30 above.

⁷ The words of the marginal note after Descendere are from 25,184 alone. The note in T. is only Voucher a garrantir. There is a somewhat different side note in 16,560.

⁸ The words Doun en are omitted from T. and 25,184.

⁹ 25,184, et.

¹⁰ 16,560 and Harl., partie.

¹¹ The words le tenant are omitted from Harl.

¹² T., entra.

¹³ Harl., porcien.

¹⁴ T., urent; 25,184, neurent; Harl., avoient.

¹⁵ jugement is omitted from 25,184.

¹⁶ T., 16,560, and 25,184, demandante.

No. 38.

A.D. 1342. in virtue of such possession, terminated by the death of Thomas, she who is in of her elder estate ought to vouch.—HILLARY. You have admitted the possession of the vouchees, of which estate they might have made warranty.—*Blaykeston*. I have alleged their continuance; and if land be purchased to hold to a man and his wife and the heirs of the husband, if the wife after her husband's death vouch her husband's heir, I shall admit the possession, as above, and shall oust her from the voucher because she is in the estate which she took with her husband, &c.; so here.—HILLARY. The case is not similar. Let the voucher stand.

Avowry (38.) § Avowry in respect of heifers and young
on the ground of bullocks taken, on the ground that every commoner of
custom, to the vill, &c., who holds one virgate of land ought to have
wit, that a eight oxen, and one who holds more land more animals
commoner shall have, in proportion, and no other beasts of the vill ought to
in respect common there, &c., and the surplus of the pasture is to be
of common reserved for the use of the lord, for agistment, &c.;—and
appendant, only a this has been the custom from all time;—and for that
certain number of those beasts were found in the said common, &c., he
beasts, and

No. 38.

jugement si par tiele possession, termine par la mort A.D. 1342.

Thomas, cele quele est einz de soun eigne estat deyve voucher.—HILL. Vous avez conu la possession de vouches, de quel estat ils poent aver fait garrantie.—

Blaik. Jay allegge lour continuaunce; et si terre soit purchace a un homme et sa femme et as heirs le baroun, si la femme apres la mort soun¹ baroun vouche leir soun² baroun. [jeo conustra la possession, *ut supra*, et loustra del voucher pur ceo qe ele³ est en lestat qe ele prist ove soun baroun],⁴ &c.; auxi ycy.—HILL. *Non est simile.*⁵ Estoise le voucher.⁶

(38.)⁷ § Avowerie de genyces et bovets, et pur ceo qe chesquun comuner de la ville, &c., qe tynt une verge de terre deit aver viij boefs, et a puis puis solonc lafferaunt, et nuls altres bestes y deyvent comuner de la ville, &c., et le surplus de la pasture serra salve al oeps le seigneur pur agister, &c.;—et ceste chose iliad issint usee de tut temps;—et pur ceo qe ces bestes furent troves en la dite comune,⁸ &c., il prist pur damage

Avowerie par usage, saver, qe un comuner de comune appendante n'ava vera qe certain n'oumbre des bestes.

¹ 25,184, le.

² Harl., le.

³ Harl., qil, instead of qe ele.

⁴ The words between brackets are omitted from 25,184.

⁵ In the MSS. the name *Derwor-thi* is here interpolated.

⁶ T. and 25,184, &c., instead of le voucher.

⁷ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 131, d. It there appears that the action was brought by Henry de Braundestone, Prior of Launde, against Thomas Bassett of Welham.

⁸ The avowry in the record is "quod ipse est dominus manerii de Welham, unde locus prædictus in quo, &c., est parcella, et idem locus est quædam placea pasturæ ejusdem manerii, et solum ejus-

"dem Thomas, in qua omnes
"tenentes qui tenent unam virga-
"tam terræ in eadem villa habe-
"bunt pasturam in eadem pastura,
"&c., ad octo grossa animalia
"pascendum, et qui plus tene-
"menti tenet plura habebit anima-
"lia in eadem pastura pascenda,
"et qui minus tenet habeat secun-
"dam quantitatem tenementi,
"videlicet a festo Inventionis
"Sanctæ Crucis usque ad festum
"Sancti Martini in hieme, et si
"quis tenentium ejusdem villæ in
"prædicta pastura plura posuerit
"animalia bene liceat eidem
"Thomas illa imparcare, et hoc
"ipse Thomas et antecessores sui,
"et illi quorum statum ipse
"Thomas habet usi fuerunt a
"tempore quo non extat memoria,
" [et] habuerunt et habebunt agis-
"tamentum animalium tam forinse-

No. 38.

A.D. 1342. took them for *damage fesant*.—*Derworthy*. He has that, if he admitted the common to be appendant, which is for all put in more than kinds of beasts without limit of number, if it be not that number, the restricted by admeasurement, and that he has not the lord may alleged; judgment.—*Stouford*. Then is it so?—And distrain, &c. And then *Derworthy* said that he did not admit the avowry or note well, the customs; and he said that the plaintiff was lord of as to the surplus, a moiety of the vill in which, &c., and the avowant was that lord of the other moiety, and that they held the wastes avowry was made in common; judgment whether the defendant can avow for *damage* the distress in his own soil. And we tell you that the *feasant*. plaintiff and those whose estate he has have always Nevertheless the pastured there.—*Thorpe*. He takes two causes to commoner could show colour for destroy the avowry; one is by common right, because he coming to the place. is lord in common with us of the soil, &c.; and the other is that by custom, although he were not lord, he could See above, destroy the avowry.—*Derworthy*. What we say of Hilary Term in the 15th your customs which you allege on your part, so that they year, a writ of should not be held as not denied by us, for, even though Trespass,¹ it were our soil, by custom you might oust us from and Easter Term in the 10th pasturing there; and therefore we do not wish that it year, a writ of should be held as not denied; but we take for our plea that in our soil, which we hold in common with you, Trespass.²

“ corum quam intrinsecorum infra
 “ prædictum tempus in prædicta
 “ pastura pro voluntate sua habenda, et hoc usi fuerunt a tempore
 “ quo non extat memoria; et a
 “ prædicto festo Sancti Martini
 “ usque ad prædictum festum Inventionis Sanctæ Crucis erit
 “ separale ipsius Thomæ, ita quod
 “ prædicti tenentes in prædicta
 “ pastura animalia sua non pascent; et quia prædictus Prior
 “ non tenet in prædicta villa nisi
 “ tres virgatas terræ tantum, quibus sibi pertinet habere viginti

“ et quatuor grossa animalia, et,
 “ prædictis die et anno, posuit in
 “ prædicta pastura prædicta septem
 “ animalia, de quibus idem Thomas
 “ modo advocat, &c., ultra numerum prædictorum viginti et quatuor animalium, cepit ipse prædictos quatuor bovinulos et tres juvenecas.”

¹ Perhaps Y.B., Hil. 15 Edw. III., No. 42. (The case, however, is one of Assise of Common of Pasture.)

² Y.B., Easter 10 Edw. III., No. 12, fo. 18.

No. 38.

fesaunt.—*Der.* Il ad conu la comune estre appendaunt, A.D. 1342. quele est a toutes maneres des avers *saunz nombre*,² et, sil mettra outre si ele ne soit restreynt par amesurement, quele chose cal nombre, quele chose il nad pas allegge; jugement.—*Stouf.* Donques est il³ bre, qe le issint?⁴—Et puis⁵ dit *Der.* qil ne conust pas lavowerie purra destreindre, ne⁶ les usages, et dit qil est seigneur de la moite de 'a &c. *Et nota bene* ville en quele, &c., et lavowaunt de lautre moite, et desurplus, teignent⁷ les wastes en comune; jugement si en soun avowerie soit demene puisse la destresse avower. Et vous dioms fuit fait pur que luy et ces qi estat il ad⁸ ount peu⁹ illoeques¹⁰ de damage tut temps.—*Thorpe.* Il prent deux causes pur destruer¹¹ fesaunt. lavowerie; une est par comune dreit,¹² pur ceo qil est Uncore seigneur en comune¹³ ovesqe nous du soil, &c.; et altre avoit le est pur ceo qe par usage, tut ne fuit il pas seigneur,¹⁴ le comuner il purroit destruer lavowerie.—*Derworthi.* Ceo qe nous un colour de parloims dusage de nostre part, ceo¹⁵ nest forsque de venir illoeques. protestacion¹⁶ countre voz usages queux vous alleggez *Vide supra,* de vostre part, qils ne soient tenuz a nient dedit de Hil. xv., nous, qar, tut fuit ceo¹⁷ nostre soil, par usage vous nous bref de ousteres de pestre illoeques; et pur ceo¹⁷ ne voloms¹⁸ pas Trespas, et P. x., qe ceo¹⁷ soit tenu a nient dedit; mes pur plee pernom¹⁹ Bref de Trespas.¹ qen nostre soil, qe nous tenoms en comune ovesqe vous,

¹ The words of the marginal note after the word *Avowerie* at the beginning are from 25,184 alone.

² The words *saunz nombre* are omitted from T. and 25,184.

³ il is omitted from 25,184.

⁴ 16,560, yci; 25,184, issi; Harl., icy.

⁵ Harl., donques.

⁶ T. and 25,184, et.

⁷ 16,560 and 25,184, tenent; Harl., tiegnent.

⁸ The words *il ad* are omitted from T.

⁹ Harl., eu.

¹⁰ illoeques is omitted from 16,560 and 25,184.

¹¹ 25,184, destruyr.

¹² dreit is omitted from Harl.

¹³ The words *en comune* are from 16,560 alone.

¹⁴ 25,184, vous nous oustes de pestre, instead of *tut ne fuit il pas seigneur.*

¹⁵ The words *de nostre part, ceo* are omitted from T. and 25,184.

¹⁶ 25,184, proces.

¹⁷ Harl., comune.

¹⁸ Harl., volons.

¹⁹ Harl., prioms.

No. 39.

A.D. 1342. you can not avow the distress.—*Thorpe* imparled, and said that the soil where, &c., belonged to him alone, without this that the plaintiff had anything therein except common ; ready, &c.—And the other side said the contrary.

Formedon (39.) § Formedon in the Descender, on the gift made
in the
Descender to the demandant's father.—*Thorpe*. We tell you that

No. 39.

ne poez destresse avower.—*Thorpe* emparla, et dit qe A.D. 1342.
le soil ou, &c., fuit a luy soul, saunz ceo qe le pleyntif
rien y ad forsque comune; prest, &c.—*Et alii e contra*.¹

(39.)² § Descender, del doun fait al pere le demandaunt. Descender.
—*Thorpe*. Nous vous dioms qe laiel le demandaunt,

¹ According to the record the issue was thus joined :—"Et prædictus Thomas, non cognoscendo prædictum Priorem aliquod dominium ejusdem villæ habere, dicit quod ipse est solus dominus de pastura prædicta, et fuit prædictis die et anno, absque hoc quod prædictus Prior aliquid habet vel habuit in prædicta pastura, nisi tanquam communarius ejusdem villæ, sicut prædictum est. Et de hoc ponit se super patriam. Et prædictus Prior similiter." At *Nisi prius* the jury found "quod locus de Banholm, in quo prædictus Thomas advocat prædictam captionem averiorum, est prædictorum Prioris et Thomæ in communi, et quod iidem Prior et Thomas sunt domini ejusdem loci in communi, et fuerunt die captionis prædictæ." They assessed the damages at 40s., and judgment was given for the Prior to recover the amount.

² From T., 16,560, 25,184, and Harl., but corrected by the two records of the case, *Placita de Banco*, Trinity, 16 Edw. III. R^o. 259 and R^o. 329, d. It there appears that the action was brought by John son of John de Percy, of Kildale, against William de Crathorne and Isabel his wife, in respect of messuages, lands, &c., in Crathorn (Yorkshire), given by Arnald de Percy to his son John, the father of the demandant, in special tail.

The plea in bar was that the donor (the demandant's grandfather) enfeoffed in fee by charter, with warranty, John le Teuler, of York (according to the first record, but John son of Stephen le Teuler, of York, according to the second record), of the whole manor of Crathorn, of which the tenements in demand were a moiety. This feoffee's son and heir was William de Crathorne, who, when seised, enfeoffed William de Tibthorpe, chaplain, in fee, by charter with warranty, and the latter gave the tenements back in special tail to William de Crathorne and his wife, the tenants, with remainder to William's right heirs.

The replication that nothing passed is differently expressed in the two records. In the first the chief words are :—"nihil transivit per chartam prædictam de per-sona prædicti Arnaldi in per-sonam prædicti Johannis le Teuler." In the second they are :—"nihil transivit extra possessionem prædicti Arnaldi per chartam ipsius Arnaldi in possessionem prædicti Johannis filii Stephani le Teuler, nec aliquem statum virtute chartæ prædictæ in prædictis tenementis habuit." The second record appears to be the more authoritative, as it alone contains the final words of the *Venire* including the day on which the jurors were to come.

No. 40.

A.D. 1342. the demandant's grandfather, whose heir he is, by this deed enfeoffed one John le Teuler of York of the whole manor, two parts whereof are demanded, to hold to John le Teuler and his heirs, and bound himself and his heirs to warrant John le Teuler and his heirs and assigns. From John it descended to William as son; which William by deed enfeoffed one William de Tibthorpe, chaplain, in fee simple, which William, chaplain, by this deed re-enfeoffed W. and Isabel his wife against whom the writ is brought. Judgment whether in opposition to the deed of your ancestor, which contains a warranty, you can demand anything.—*Blaykeston*. Nothing passed; ready, &c.—And the other side said the contrary.—*Quære* whether the warranty would have lain in their mouth if it had been counterpleaded.

Dower, where the husband's heir was vouched, and pleaded, after he had become tenant by his warranty, that he had always been ready to render dower, and still was ready, if the demandant would deliver to him charters touching (40.) § Dower, where the vouchee came and said that the demandant detained from him certain charters and muniments touching his inheritance, and he specified them, and said that he had always been ready, and still was, to render dower to her if she would deliver to him the charters.—*Blaykeston*. You are not tenant, and never before could have rendered; judgment whether such an answer lies in your mouth.—*Pole*. We are the heir of your husband, and so we have warranted; wherefore, since your recovery will be had against us, it seems that the answer lies for us.—*Blaykeston*. You are not vouched as heir, but you are vouched in general terms.—*Pole*. Although a voucher be in common form, one will be bound as heir; and since we are tenant by our warranty as heir of our ancestor, of whose endowment

No. 40.

qi heir il est, par ceo fait feffa un Johan³ Teuler A.D. 1342.
 Deverwik del maner entier, dount les deux parties *Et credo*
 sount demandes, a luy et ses heirs, et obligea luy et ses *qe assigne*
 heirs a garrantir a luy et ses heirs³ et ses assignes. *dassigne*
 De Johan³ descendi a William come a fitz; le quel *ne poet*
 William par fait feffa un W.,⁴ chapleyn, en fee simple, *mie estre*
 le quel W.,⁴ chapleyn, par ceo fait refessa W. et Isabele sa *eide par*
 femme vers quex le bref est porte. Jugement si countre *garrantie.*
 le fait vostre auncestre, qe comprennent garrantie, puissez *Et en ceo*
 rien demander.—*Blayk.* Rien ne passa; prest, &c.— *cas il est*
Et alii e contra.—*Quære* si la garrantie ust jeu⁵ en *assigne*
 lour bouche en cas qil ust este countreplede. *dassigne*
de heir.¹

(40.)⁶ § Dowere, ou le vouche vynt et dit qe la Dowere,
 demandante luy detynt certeyns chartres et monumentz ou leyr le
 touchauntz soun heritage, et mist en certeyn quels, et baroun fuit
 dit qil fuit tut temps prest, et unquore est, de rendre a vouche, et
 luy dowere si ele voille rendre a luy les chartres.— *pledoit qil*
tut temps
prest a
rendre,
&c., et est
&c., si ele
voleit, &c.,
chartres
touchants
soun heri-
tage, apres
qil fut
tenant par
sa garran-
tie. Et a
nul temps
il put aver
performe
Blaiik. Vous nestes pas tenant, ne unques devant ore
 puissez aver rendu; jugement si tiel respouns⁷ en
 vostre bouche gise.—*Pole.* Nous sumes heir vostre
 baroun, et issi avoms garranti; par quei del honre qe
 vostre recoverir se⁸ taillera vers nous, il semble qe le
 respouns⁹ gist pur nous.—*Blaiik.* Vous nestes pas
 vouche com heir, mes generalment estes vouche.—*Pole.*
 Mesqe le voucher soit comune, homme serra lie come
 heir; et del houre qe nous sumes tenant par nostre
 garrantie, come heir nostre auncestre,¹⁰ de qi dowement¹¹

¹ The words of the marginal note after Descender are from 25,184 alone. In T. the note is *Forme de doun.*

² MSS. of Y.B., Richard.

³ The words a luy et ses heirs are omitted from 16,560.

⁴ MSS. of Y.B., A.

⁵ 16,560, ei; 25,184, iheu; Harl., ja.

⁶ From T., 16,560, 25,184, and Harl.

⁷ 25,184, ple.

⁸ se is omitted from T. and 25,184.

⁹ respouns is omitted from Harl.

¹⁰ T. and 25,184, uncle.

¹¹ The words de qi dowement are omitted from Harl.

No. 41.

A.D. 1342. she demands, and she does not deny that she detains, &c.,
 ing his inheritance. judgment.—SHARDELOWE. You have warranted to the
 And he tenant who is a stranger, in whose mouth such an
 could not answer would not lie, nor consequently in yours;
 at any time wherefore the Court adjudges that she do recover her
 before the present dower against you if you have, &c., and if not, against
 have performed as the tenant, and he to the value against you, &c.—The
 he said. contrary below in Michaelmas term in the 17th year.
 Seisin was awarded.

Formedon (41.) § Formedon in the Descender, on a gift made to
 in the Joan late wife of Robert Oriby for term of her life, so
 Descender that after her death the manor should remain to the heirs
 against John de of Joan which Robert had begotten on her body. And in
 Kirketon. virtue of this gift Joan was seised; and after her death
 Observe that the John, son and heir of Joan, begotten by Robert, entered
 writ was and was seised according to the form. And the tenements,
 good. after the death of Joan and of John son and heir of Joan,
 begotten by Robert, and after the death of Alice, sister
 of John, ought to descend to John son of Alice and
 cousin and heir of John son of Joan.—*Thorpe*. Judgment

No. 41.

ele demande, et ele ne dedit pas qe ele ne detient,² &c., A.D. 1342.
 jugement.—SCHARD. Vous avez garranti al tenant qest soun dit
 estraunge, en qi bouche tiel respouns ne girreit, *nec per* Seisine¹
consequens en la vostre; par quei agarde³ la Court agarde.
 qele⁴ recovere⁵ soun dower vers vous si vous eietz,⁶ &c., [Fitz.,
 et si noun, vers le tenant, et il a la value vers vous, &c. Dower,
 —*Contrarium infra Michaelis xvij.*⁷ 57.]

(41.)⁸ § Descender, dun doun fait a Johane qe fuit Descendre
 la femme Robert Oriby,¹⁰ a terine de sa vie, issint qe vers Johan
 apres soun decees le maner remeyndreit a les heirs de Kirke-
 Johane queux Robert avoit engendre de soun corps, par tone. *Vide*
 quel doun Johane fuit seisi, et apres sa mort Johan,¹¹ fitz bref qe
 et heir Johane du corps Robert engendre, entra et seisi bon⁹
 fuit par la fourme,¹² et les queux apres la mort Johane,
 et Johan¹¹ fitz et heir Johane du corps Robert engendre, et
 Alice soer Johan,¹¹ a Johan fitz Alice et cosyn et heir
 Johan¹¹ descendre deit.—*Thorpe*. Jugement du bref,

¹ The words of the marginal note after Dower are from 16,560 alone. There is a marginal note in a later hand in 25,184.

² 25,184, detient pas; Harl., demande.

³ Harl., ajuce.

⁴ Harl., qil.

⁵ Harl., resceit.

⁶ The word eietz is omitted from T. and 25,184.

⁷ The last sentence is from T. alone.

⁸ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edward III., Ro. 187, d. It there appears that the action was brought by John, son of Alice, daughter of Robert de Oriby, against John de Kirketon, in respect of the manor of Tummy (Lincolnshire). The

writ was to the effect that the gift was to Joan late wife of Robert son of Simon de Oriby for her life, with remainder to her heirs begotten of the body of Robert, and that after her death and that of John her son and heir begotten of the body of Robert "et Alicie sororis prædicti" "Johannis filii Johanne, præfato" "Johanni filio ejusdem Alicie" "et consanguineo et heredi prædicti filii Johanne filii Johanne" "descendere debet."

⁹ The words of the marginal note after Descendre are from 16,560 alone. In T. the note is *Forme de doun*. In 25,184 there is a different note in a later hand.

¹⁰ All the MSS. of Y.B., except 16,560, Derby.

¹¹ MSS. of Y.B., Robert.

¹² 16,560 and Harl., manere.

Nos. 42, 43.

A.D. 1342. of the writ, because Alice is not made daughter of Joan who was begotten by Robert, but only sister to John the son, &c. ; thus the form is not followed or continued, because Alice might be his sister by another venter, in which case she would take nothing by that special entail.—HILLARY. You can say that by way of answer ; and by that word "sister" she is by common intent sufficiently made privy, for the form was vested in her brother, and therefore the writ seems to us good.

Fine levied on a possibility which may come to pass. (42.) § *Gaynesford*. A. grants and renders the tenements comprised in the writ to Alice and the heirs whom W. atte Gappe shall beget on her body, and if, &c., that they shall remain, &c.—SHARDELOWE. Is W. the husband of Alice?—*Gaynesford*. No.—SHARDELOWE. Then this fine is uncertain.—SHARSHULLE. It is not so, because she may become his wife, and, if not, the remainder is limited with certainty, &c.—And the fine was admitted.

Fine where the husband alone acknowledged to B., &c., and B. rendered to the husband and his wife. And the fine was admitted because it was found upon examination that the inheritance was that of the husband ; and this was the reason. (43.) § *Gaynesford*. John acknowledges the tenements to be the right of the chaplain, and for that acknowledgment the chaplain grants and renders to John and E. his wife, who is party to the writ, and the heirs of their bodies, &c.—HILLARY. Why did not the wife acknowledge the right, &c. ? for it may be that it is her inheritance.—*Gaynesford*. She had only a freehold, and the husband had the inheritance, and you will find this on examination.—And on examination it was found to be so.—And the fine was admitted.

Nos. 42, 43.

qar Alice nest pas fait¹ fille Johane del corps Robert A.D. 1342 engendre, mes solement soer a Johan² le fitz, &c.; issi la fourme noun³ pursuy ne continue, qar ele purroit⁴ estre sa soer daltre ventre, en quel cas ele navereit rien par ceste taille especial.—HILL. Ceo poez dire par voie de respons; et par cele paroule soer de comune entente⁵ ele est fait assez prive, qar la fourme fuit vestu en soun frere, et pur ceo nous semble le bref bon.⁶

(42.)⁷ § *Gayn*. A. graunt et rend les tenementz con- *Finis leve*
tenuz el bref a Alice et a les heirs qe W. atte Gappe *sur possi-*
engendra de soun corps, et si, &c., remeigne, &c.— *bilita qe*
SCHARD. Est W. le baroun Alice?—*Gayn*. Nanyl. *put estre.*⁸
—SCHARD. Donques est ceste fyne noun certeyn.—SCH.
Noun est, qar ele purra estre sa femme, et, si noun, la
remeindre⁹ est taille en certeyn, &c.—*Et admittitur*.

(43.)¹⁰ § *Gayn*. Johan conuse¹¹ les tenementz estre *Finis,*¹¹ ou
le droit le chapleyn, et pur ceste reconisance le chapleyn *le baron*
graunt et rend a Johan et E. sa femme, qest partie au *soul conust*
bref, et les heirs de lour corps, &c.—HILL. Pur quei ne *a B., &c.,*
conust pas la femme le droit, &c.? qar par cas cest soun *et B. rendi*
heritage.—*Gayn*. Ele navoit qe fraunc tenement, et le *a baron et*
baroun fuit enherite, et ceo troverez par examenement.— *sa feme, et*
*accepte,*¹²
qar par
examine-
ment trove
le heritage
le baron;
et hæc fuit
causa.

¹ fait is omitted from Harl.

² MSS. of Y.B., Robert.

³ 16,560 and Harl., nient.

⁴ Harl., poet.

⁵ 25,184, attent.

⁶ This in not in accordance with the record:—*Quia nondum visum est Curie utrum prædictum breve "cassari debeat necne datus est "dies partibus,"* and there were successive adjournments until at last the parol remained without day on a Protection given to the

tenant for a year in the 19th year of the reign.

⁷ From T., 16,560, 25,164, and Harl.

⁸ The words of the marginal note after *Finis* are from 16,560 alone.

⁹ T., rente; 25,184, remenant.

¹⁰ From T., 16,560, and 25,184.

¹¹ The words of the marginal note after *Finis* are from 16,560 alone.

¹² MS., excepte.

¹³ 25,184, conust.

¹⁴ 25,184, *non admittitur*.

Nos. 44, 45.

A.D. 1342.

Note, that a writ was abated by the Court, after view, for want of the words *cum pertinentiis*. The reason was that, on such a writ, non-tenure of the appurtenances cannot be alleged, as, for instance, of an advowson.

(44.) § After view, in a Formedon for a manor, exception was taken to the writ because the words *cum pertinentiis* were wanting.—*R. Thorpe*. We shall recover so much the less; and by the view the writ is affirmed.—*W. Thorpe*. Matter is wanting, for on this writ we can not allege non-tenure of an advowson which would abate the writ.—*SHARDELOWE*. The Court would *ex officio* abate such a writ.—And then *SHARDELOWE* by common assent abated the writ.

Fine.

Note here that the fine was uncertain on one point, on a possibility, and this part was rejected, and the fine, as to the residue, accepted.

(45.) § *Gaynesford*. The husband and his wife grant and release whatever they have in the tenements comprised in the writ, for their lives, to J. and his heirs, and bind themselves for the whole of their lives to warrant to J. and to his heirs; and for that warranty and release J. grants to the husband and his wife, for their lives, 20s. of rent issuing from the same land, and that, whenever the rent is in arrear, it shall be lawful for them to distrain.—*SHARSHULLE*. What estate has J. in the

Nos. 44, 45.

(44.)¹ § Apres la viewe, en fourme de doun dun maner, pur ceo qil faillist *cum pertinentiis* le bref fuit challenge.—*R. Thorpe*. Nous recoveroms le meyns; et par la viewe il est afferme.—*W. Thorpe*. Matere y faut, qare sur² ceo bref nous poms⁴ pas allegger noun tenue davoweson quel abatereit le bref.—SCHARD. Court abatereit tiel bref doffice.—Et puis SCHARD. par comune assent abatist le bref.

A.D. 1342.
Nota qe
bref fuit
abatu,
apres veue,
par la
Court, pur
defaute
cum perti-
nentiis.
Causa
quia, par
tel bref,
de appur-
tenances
nontenure
ne put
estre
allegge,
cum
avowe-
soun.²

(45.)⁵ § *Gayn*. Le baroun et sa femme grauntent⁷ et releissent quant qils avoient en les tenementz contenuz en le bref, pur lour vies, a J. et ses heirs, et obligent eux, pur toutz lour vies, a garrantir a J. et a ses heirs; et pur cele garrantie et relees J. graunt al baroun et a sa femme, pur lour vies, xxs. de rente issaunt de mesme la terre, et, quel hure qe la rente soit arere, qe lise⁸ a eux a destreyndre.—SCHAR. Quel estat ad J.⁹ en la terre?—

Finis.
Nota hic
qe le fyn
fut en
noun cer-
teyn en un
point, sour
un possi-
bilite, et
cel part
oste, et la
fin, de
remenant,
accepte.⁶

¹ From T., 16,560, 25,184, and Harl. The case is probably that which appears on the *Placita de Banco*, Trinity, 16 Edw. III. R^o. 253, d, which was, however, not one of Formedon, but one of Cosinage. The action was brought by William de Cayllewey against Elias de Filton, in respect of the manor of Rannestoke-by-Bristol. The resort and descent were traced, in the usual way in the count, but the tenant prayed Oyer of the writ, which abated for the omission of the words "*cum pertinentiis*."

² The marginal note is from 16,560 alone. In T. the note is *Nota* de bref abatu. In 25,184 there is a short note in a later hand.

³ sur is omitted from Harl.

⁴ 25,184, purroms.

⁵ From T., 16,560, 25,184, and Harl.

⁶ The words of the marginal note after *Finis* are from 16,560 alone. The note in T. is *Nota de fine*.

⁷ 25,184, granterent.

⁸ T., lyse.

⁹ 16,560 and Harl., il.

No. 45.

A.D. 1342. land?—*Gaynesford*. He holds by lease from the husband and his wife for their lives, for such an estate they had, and they have leased their estate to J., and they wish to confirm the lease by fine.—*SHARSHULLE*. They shall not be admitted to render their estate by fine, because it would not be a fine unless the reversion were saved or limited over; and now this warranty is uncertain, because it is not known by the fine what estate the tenants have, or for what estate they shall have warranty, whether in fee or for term of life.—*Gaynesford*. The warranty will be according to the tenancy, which is only for the lives of the husband and his wife.—*SHARSHULLE*. We can not know that, because whatever they had is released, and the tenant perchance may have a fee in the land, and if he have a fee the warranty would bind as for a fee; and if the husband and his wife bind themselves and the heirs of the husband to warranty, if the wife be vouched after the death of her husband, she will make satisfaction to the value of the fee; and so also will the husband after the death of his wife, where he and his wife and the heirs of his wife are bound to warrant; and therefore, by reason of the uncertainty as to the estate in respect of which the warranty would take effect, we can not admit the fine as to the warranty, but as to the residue you may have it.—And he waived the warranty, and had the fine as to the residue.

No. 45.

Gayn. Du lees le baroun et sa femme a lour vies, qar A.D. 1342
 tiel estat avoient ¹ ils, ² et ils ³ ount lesee a J. lour estat,
 et le voillent ⁴ affermer par fyne.—*SCHAR.* Par fyne ils
 ne serrount pas resceu ⁵ de rendre, lour estat, qar ceo ne
 serroit pas fyne si la reversion ne fuit salve ⁶ ou taille ⁷
 outre; et ore cest garrantie est en noun certeyn, qar
 home ne sciet ⁸ par la fyne quele estat les tenanz ount,
 ne de ⁹ quel estat ils averount garrantie, ¹⁰ ou de fee ou
 pur terme de vie.—*Gayn.* La garrantie serra accor-
 daunt a la tenance, quel nest forsge a la vie le baroun et
 sa femme.—*SCHAR.* Ceo ne poms saver, qar quant qils
 avoient est relese, ¹¹ et le tenant par cas poet aver ¹² fee
 en la terre, et sil eit fee la garrantie liereit de fee; et si
 le baroun et sa femme lient eux et les heirs le baroun a
 la garrantie, si la femme apres la mort soun baroun soit
 vouche, ele ferrra en value fee; et auxi le baroun apres
 la mort sa femme, la ¹³ ou ly et sa femme et les heirs sa
 femme sount lies de garrantir; et pur ceo, par ¹⁴ la
 nouncerteynte ¹⁵ de quel estat la garrantie prendreit
 effect, ne poms resceyvra ¹⁶ la fyne quant a la garrantie, ¹⁷
 mes quant al remenant vous laverez.—Et il weyva la
 garrantie, et *habuit* quant al remenant. ¹⁸

¹ avoient is omitted from Harl.² 25,184, eux.³ The word ils is omitted from T. and 25,184.⁴ 16,560 and 25,184, voleint; Harl., vollent.⁵ Harl., ressuz.⁶ 25,184, taille; 16,560 and Harl., sauve.⁷ 25,184, saufve.⁸ 16,560, seot; 25,184 and Harl., soet.⁹ de is omitted from 16,560 and Harl.¹⁰ garrantie is omitted from Harl.¹¹ 25,184, entrelesse, instead of est relese.¹² aver is omitted from 25,184.¹³ la is from T. alone.¹⁴ The words ceo par are from 16,560 alone.¹⁵ 16,560, cleyme; Harl., cleme.¹⁶ 16,560 and Harl., prendre; 25,184, retener.¹⁷ The words quant a la garrantie are omitted from 16,560 and Harl.¹⁸ The words quant al remenant are omitted from T.

Nos. 46-48.

A.D. 1342.
Voucher
in Dower.

(46.) § Alice late wife of Robert Prat was admitted, and she vouched.—*Blaykeston*. He who is vouched is under age, and in the wardship of one J., in which case, if he were vouched as one under age and she had not a specialty ready by which the infant would be bound, the voucher would abate; and since she vouches him as one of full age, judgment of the voucher.—*SHARSHULLE*. She vouched at her peril as if he were of full age; and we can not know anything about that which you say; and you do not according to any law counterplead the voucher; wherefore let the voucher stand.

Debt, for
executors.

(47.) § Debt, for executors, where one was severed.—*Gaynesford*. We tell you that he who is severed is dead; judgment of the writ.—*SHARDELOWE*. Ralph Hengham salutes you; for the executors of him who is dead will not have an action with the co-executors of their testator.—*Gaynesford*. They will have a writ alone.—*SHARDELOWE*. Answer.

Quod permittat in the *debet* and in the *solet*, and the *mise* was joined, and the *solet* was taken out by consent of the parties, and then the *mise* was accepted by the Court.

(48.) § *Quod permittat* in the *debet* and *solet* was brought in respect of common of pasture against Henry de Ferrars and Isabel his wife by a man and his wife. And the demandants counted by *R. Thorpe* that tortiously they deforced the demandants of common in 1,000 acres of pasture, to wit of commoning with all

Nos. 46-48.

(46.)¹ § Alice qe fuit la femme Robert² Prat⁴ fuit resceu, et voucha.—*Blak.* Celuy qest vouche est deinz age, et en la garde un J., en quel cas, sil fuit vouche come deinz age et il nüst pas especialte prest par quel lenfant serroit lie, le voucher abatereit; et, del houre qil lui vouche⁵ come de pleyn age, jugement de voucher.—SCHAR. Il voucha a soun peril com de pleyn age; et nous ne poms pas saver de vostre dit⁶; et vous le countrepledes par nule ley; par quei estoise le voucher.

A.D. 1342.
Voucher
en Dower.³

(47.)¹ § Dette pur executours, ou un fuit severe — *Gayn.* Nous vous dioms qe celuy qest severe est mort; jugement du bref.—SCHARD. Rauf Hengham vous salue; qar les executours celuy qest mort naverount pas accion ove les co-executours lour testatour.—*Gayn.* Il averount bref soul.—SCHARD.⁸ Respondez.

Dette pur
execu-
tours.⁷

(48.)⁹ § *Quod permittat* en le debet et solet¹¹ fuit porte de comune de pasture vers Henre de¹² Ferrars¹³ et I. sa femme par un homme et sa femme. Et counterent par *R. Thorpe* qatort lour deforce comune en mil¹⁴ acres de pasture, saver a comuner ove¹⁵ touz maneres des¹⁶

Quod permittat en le debet et en le solet, et mise joint, et le solet oste par assent des parties, et accepte de Court.¹⁰

¹ From T., 16,560, 25,184, and Harl.

² The words Voucher en are from T. alone.

³ 25,184, Thomas.

⁴ For the first seven words are substituted in 16,560 and Harl. the words Une feme.

⁵ T., lad vouche instead of lui vouche.

⁶ dit is omitted from Harl.

⁷ The words pur executours are from Harl. alone.

⁸ Harl., *Gay*.

⁹ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^e. 275. It there ap-

pears that the action was brought by Adam de Oldefelde and Edith his wife against Henry de Ferrars and Isabel his wife, in respect of common of pasture in 1,000 acres in Stoke-upon-Tern and Moreton Say (Salop).

¹⁰ The words of the marginal note after *permittat* are from 16,560 alone.

¹¹ 16,560, en le solet.

¹² 16,560 and Harl., le.

¹³ T., Ferers; 16,560, Ferrers; 25,184, Freres.

¹⁴ 25,184, deux.

¹⁵ 16,560, od; Harl., a.

¹⁶ The words maneres des are omitted from T. and 25,184.

: No. 48.

A.D. 1342. kinds of beasts every year throughout the whole year, and that this was the right of the wife, and that the husband and his wife were seised thereof as of fee and of the right of the wife, in time of peace, and took the esplees as by pasturing their beasts, to wit horses, oxen, cows, and great beasts and small beasts, and took other kinds of issues of common, &c., as in right of the wife; and that such was the right of the wife they tendered suit and good deraignment.—*Pole* denied tort and force and the right of the wife absolutely, and furthermore their seisin, in respect of which, &c., as of fee and of the right of the wife, to wit of commoning with all kinds of beasts in 1,000 acres of pasture in such a vill every year at all seasons, &c., and they (the tenants) put themselves on God and on the Grand Assise, &c., whether they have better right to hold the said thousand acres, &c., in severalty as the right of Isabel Henry's wife as they hold, or the aforesaid demandants to have the aforesaid common in the aforesaid 1,000 acres, &c., as the right of the wife as they demand.—*Thorpe*. Let the mise stand.—*SHARDELOWE*. Is not this a writ in the *debet* and *solet*, which is a possessory writ? I have never heard the mise joined on such a writ.—*Pole*. We can not have any other writ than one in the *solet* as to

No. 48.

avers chesqun an par tut lan, et qe ceo fuit le dreit la A.D. 1342.
 femme, et dount le baroun et sa femme furent seisiz
 come de fee et de dreit la femme, en temps de pees,¹
 et pristrent les esplees come en pessaunt lour avers,
 saver chivaulx, boefs, vaches, et gros bestes² et menues³
 bestes,⁴ et altre manere dissue de comune, &c., come del
 dreit la femme; [et qe tiel soit le dreit la femme]⁵ il
 tyndrent suyte et deresne bon.⁶—*Pole* defendi tort et
 force et le dreit la femme tut attrenche,⁷ et lour seisine,⁸
 de quele, &c., tut outre come⁹ de fee et de dreit la
 femme, nomement de comuner ove totes maneres
 des avers¹⁰ en mil acres de pasture en tiele ville chesqun
 an par toutes les sesouns, &c., et se mettent en Dieu¹¹ et
 en la Graunt Assise, &c., le quel ils ount meur¹²
 dreit a tener les ditz mil acres, &c., en severalte¹³ come le
 dreit I. sa femme com ils teignent,¹⁴ ou les avanditz &c.,
 a aver lavandite comune en les avanditz mil acres, &c.,
 come le dreit la femme com ils demandent.—*Thorpe*.
 Estoise la mise.—*SCHAR*. Nest ceo un bref en¹⁵ *debet et*
solet, qest bref de possession? [Unqes mes¹⁶ noi¹⁷
 joindre mise en¹⁸ tiel bref.—*Pole*. Nous ne poms altre
 bref aver de nostre possession]¹⁹ demene qe en²⁰ le *solet*.

¹ The words de pees are omitted from 25,184 and Harl.

² 25,184, boefs.

³ 16,560, menuz; 25,184, meyns; Harl., meins.

⁴ bestes is omitted from T. and 25,184.

⁵ The words between brackets are omitted from 16,560.

⁶ The words et qe tiel soit le dreit la femme il tyndrent suite et deresne bon are represented in the record by the words et quod tale sit jus ipsius Edithæ offerunt, &c.

⁷ 25,184, attrenchant.

⁸ T., comune.

⁹ come is omitted from 25,184.

¹⁰ The words des avers are omitted from T. and 25,184.

¹¹ T., Dieux.

¹² T. and Harl., meyndre; 16,560, mendre.

¹³ 25,184, severaute.

¹⁴ 16,560, tenent; 25,184, tynneur.

¹⁵ Harl., un.

¹⁶ mes is omitted from T.

¹⁷ T., noy; 16,560, ne on.

¹⁸ 16,560, sour.

¹⁹ The words between brackets are omitted from Harl.

²⁰ 25,184, qest, instead of qe on.

Nos. 49, 50.

A.D. 1342. our own possession.—SHARDELOWE. What you say is wrong; you can if you please; and although you have accepted it we will not allow the mise.—And afterwards, because the parties consented, the writ was amended, and the *solet* was taken out of the writ.—And the mise stood; and a day of grace was given by common consent, &c.

A Sheriff
amerced
for his
return.

(49.) § Execution was sued in respect of damages recovered on a writ of Wardship. The Sheriff returned *Scire feci, &c., ad respondendum de debito in brevi contento*. And therefore an *Alias Scire facias* issued, and the Sheriff was amerced, because it was not a debt.

Debt, for
executors.

(50.) § Debt, for the executors of Richard de

Nos. 49, 50.

—SCHARD. Vous dites male, si vous voillez; et¹ mesqe A.D. 1342.
vous lavez accepte, nous le voloms pas.—Et puis, pur ceo
qe les parties furent dun assent, le bref fuit amende, et
le *solet* ouste de bref.²—Et la mise estut; et jour de
grace fuit done *ex assensu communi*, &c.³

(49.)⁴ § Execucion suy des damages recoveris el bref Vicounte
de garde. Le Vicounte retourna *Scire feci, &c., ad re-* amercie
spondendum de debito in brevi contento. Et ideo sicut pur son
alias, et le Vicounte amercie, quia non est debitum. retourn.⁵

(50.)⁶ § Dette pur les executours Richard de Dette pur
execu-
tours.

¹ The words si vous voillez et
are omitted from Harl.

² In the Roll there is an erasure
and a line where the words "et
solent" must have been, the words
representing the writ being now
"quam habere debent ——— &c."

³ In the Roll:—"Dies datus est
eis de audienda electione Magnæ
Assise . . . prece utriusque
partis. Et tunc venerunt qua-
tuor milites." The demandants,
however, did not appear, and the
following judgment was given:—
"quod prædicti Henricus et Isa-
bella teneant prædictas mille
acras pasturæ in villis supradictis
exoneratas de prædicta commu-
nia sibi et heredibus suis, quietas
de prædictis Adam et Editha et
heredibus ipsius Edithæ in per-
petuum."

⁴ From T., 16,560, 25,184, and
Harl., but compared with the re-
cord, *Placita de Banco*, Trinity, 16
Edw. III., R^o. 258. It there appears
that Andrew de Medestede and
Margaret his wife had recovered
against Edward son and heir of
William atte Park of Ayllecote
50 marks damages for the detention
of Robert son and heir of Henry de

Ayllecote, whose wardship belonged
to them. To a *Scire facias* on this
judgment the Sheriff of the county
of Devon returned that he had
warned the defendant to appear
and show cause "qure (sic) debi-
tum in brevi contentum de terris
et catallis suis, &c., fieri, &c."
Because this answer appeared to
the Court to be insufficient "ubi in
brevi nulla fit mentio de aliquo
debito, &c., immo de damnis
recuperatis, &c.," the Sheriff was
amerced, and affered at 13s. 4d.,
and the plaintiffs were to sue an
alias writ.

⁵ The marginal note is from T.
In 16,560 and 25,184 it is *Scire
facias*; in Harl., *Execucion*.

⁶ From T., 16,560, 25,184, and
Harl., but corrected by the record,
Placita de Banco, Trinity, 16
Edw. III., R^o. 249. It there ap-
pears that the action was brought
by Hamo or Hamond de Hessay
and Isabel his wife, executrix of
the will of Richard de Huntynghton,
late citizen and merchant of York,
against Thomas son of Nicholas
de Northfolk, of York. The defea-
sance of the obligation was on
condition that the defendant should

No. 51.

A.D. 1342. *Huntyngton*, of *York*, on a bond. — *Gaynesford*. Richard by this deed granted that, if the defendant did not, without Richard's consent, aliene any of his land during his life so that our son and his wife, who was daughter of Richard, should not succeed to the inheritance of the land, then the bond should be held as null; and we tell you that we did not aliene without his consent during his life; and we demand judgment whether by that deed he can charge us.—*Blaykeston*. Your plea is double; it is either that you did not aliene, or that you did aliene, but with the consent of Richard. *SHARDELOWE*. Answer; he pleads in accordance with his deed.—*W. Thorpe*. If he will say that he did not aliene, it is a good plea, and it can be tried by the country; and if he will admit that he aliened but that it was with the consent of Richard, that lies in specialty just as much as upon a writ of Entry *sine assensu*, &c., so that the issues on this answer will be divers.—And *Gaynesford* was put to take issue on one point. And he said that he did not aliene; ready, &c.—*Blaykeston*. He aliened in A. and B.; ready, &c.—And the other side said the contrary.

Avowry. (51.) § Avowry on a very tenant, because he holds

not, without the testator's consent, sell or in any way aliene land, &c., held by him in fee simple or by right of inheritance on the day of the execution of the indenture,

away from his son William and William's wife Lucy. The issue eventually joined was as stated in the report.

No. 51.

Huntyngton¹ Deverwike par obligacion.—*Gayn.* Richard A.D. 1342. par ceo fait graunta qe si le defendant saunz soun assent nalienast nule² de sa terre en sa vie par quei qe nostre fitz et sa femme, qe fuit fille a Richard, ne fussent enherites de la terre, qe lobligacion serroit tenu pur nul; et vous dioms qe nous nalienasmes pas saunz³ soun assent en sa vie, &c.; et demandoms jugement si par ceo fait nous puisse charger.—*Blaik.* Vostre pleee est double; ou pur ceo qe vous nalienastes pas, ou pur ceo qe vous alienastes⁴ mes ove lassent Richard. — *SCHARD.* Respondez⁵; il plede accordaunt a soun fait.—*W. Thorpe.* Sil voet dire qil naliena pas, cest bon pleee, et poet estre trie par pais; et sil voet conustre qil aliena, mes ceo fuit par assent Richard, ceo chiet en especialte si avant come en bref dentre *sine assensu*, &c., issint qe les issues de cest respouns serrount⁶ divers.—Et *Gayn.* fuit mys de prendre lissue sur lun point, qe dit qil naliena pas; prest, &c.—*Blaik.* Il aliena en A. et B.⁷; prest, &c.—*Et alii e contra.*

(51.)⁸ § Avowerie sur verrai tenaunt, pur ceo qil Avowerie.

¹ T. Hunte; 16,560, Huntyndon; 25,184, Huntyngdon.

² Harl., nule parcel.

³ 16,560, 25,184, and Harl., countre.

⁴ Harl., nalienastes.

⁵ Respondez is omitted from Harl.

⁶ 25,184, sont.

⁷ In York, Skelton-by-York, and Rawcliffe-by-York, according to the record.

⁸ From T., 16,560, 25,184, and Harl., but compared with the record, *Placita de Banco*, Trinity, 16 Edw. III., R. 223. It there appears that actions of Replevin were brought by several persons against Robert de Penebrugge. He avowed on the ground that they

held various tenements of him by various services, including, in each case, suit to his mill of Tong (Salop), "ad molendum ibidem" "omnimoda sua necessaria pro" "expensis domus sue in Tonge," "ad vicesimum granum, et morabit" "(sic) ad molendum prædictum" "cum bladis suis per duos dies integros, et per tertium diem usque" "ad occasum solis nisi citius molere" "possit, et tunc, si non possit" "molere ibidem, licite recedet alibi" "ubicunque voluerit ad molendum" "blada sua absque tolneto solven-" "do apud Tonge." The tenants had withdrawn this suit for half-a-year.

Nos. 52, 53.

A.D. 1342. of the avowant by fealty and certain services, and doing suit to the avowant's mill;—and the avowant showed how with certainty;—and because the services and the suit to the mill were in arrear, he avowed for the suit, &c.—*Gaynesford*. We can not deny it.—**STONORE**. Sue the Return; and the plaintiff is in mercy.

Admea-
surement
of Pasture.

(52.) § Admeasurement of Pasture. View was demanded.—*Gaynesford*. It is of your own tort.—*Thorpe*. The admeasurement is of right, and we demand view in the soil where you claim, to which you say the common is appendant, and also of the freehold to which you say we have common appendant.—**SHARDELOWE**. The view is necessary.

*Nuper
obit.*

(53.) § *Nuper obiit*, between brothers, by custom, for

Nos. 52, 53.

tient de luy par fealte et certeyns services, et suite faire a A.D. 1342.
soun molyn ;—et mist en certeyn coment ;—et pur ceo qe
les services et la suite au molyn furent arere, il avowa
pur la suite, &c.—*Gayn*. Nous ne poms dedire.—
STON. Suez retourn ; et le pleintif en la mercy.

(52.)¹ § Amesurement de pasture. La viewe fut Amesure-
demande.—*Gayn*. Cest de vostre tort demene.—*Thorpe*. ment de
Lamesurement est en³ le⁴ dreit, et demandoms la viewe pasture.²
en le⁵ soil ou vous clames, a quele vous dites la comune
estre appendaunt, et auxi del fraunc tenement a quel
vous dites qe nous avoms comune appendaunt.—SCHARD.
La viewe est necessarie.

(53.)⁶ § *Nuper obiit*, entre freres, par usage, pur trois *Nuper*
obiit.

¹ From T., 16,560, 25,184, and Harl., but compared with the record, *Placita de Banco*, Trinity, 16 Edw. III., R., 197, d. It there appears that the action was brought by John son of Adam de Foxton against Henry de Foxton, in respect of common of pasture in the vill of Thimbleby (Yorkshire). Each held one messuage and six bovates of land "ad quæ communia pertinet." View was prayed by the defendant, and granted.

² The words de pasture are omitted from T. and 25,184.

³ T., de.

⁴ le is omitted from T. and 25,184.

⁵ 16,560 and Harl., dele instead of en le.

⁶ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R., 302. It there appears that the action was brought by John son of William de Folbergh, and "Walter and John, brothers of the same John,"

against Joan daughter of Thomas de Folbergh (which Thomas was also a brother of Walter, John, and John), in respect of tenements in Smallburgh (Norfolk). These were, according to the count, of the fee of the Abbot of St. Benedict of Hulme, and were held in socage, and partible between male heirs. The plea in abatement of the writ was that William de Folbergh had a fifth son, Hugh, who was still living in the same county. The replication was "quod idem Hugo habitum religionis assumpsit in Ordine Fratrum Minorum apud Northwyche, in quo Ordine professus est." The rejoinder, in which it was confessed that Hugh was now professed, was that, on the day of the purchase of the writ, "non fuit professus in Ordine prædicto, prout prædicti Johannes et alii superius allegarunt." This the demandants confessed, and judgment of *nil capiant* followed.

No. 53.

A.D. 1842. three brothers demandants against the daughter of a fourth brother.—*W. Thorpe*. We tell you that the common ancestor had a son named Hugh, who was living on the day on which this writ was purchased, and he is not named as tenant or as demandant; judgment of the writ.—*R. Thorpe*. Will you say that he is now living? —*SHARSHULLE*. No; it is sufficient to aver that the writ was false on the day on which it was purchased.—*R. Thorpe*. Say where he was living.—*W. Thorpe*. At Norwich in the county of Norfolk.—*R. Thorpe*. It is very true that there was such a person, but before the writ was purchased he entered into religion in the Order of, &c., and in that Order he is professed; judgment whether by reason of his existence our writ can be abated.—*W. Thorpe*. And inasmuch as you have admitted his existence, and have not alleged his profession on the day of the purchase of the writ, your writ was thus false at that time; judgment.—*R. Thorpe*. And inasmuch as you have not now denied that he is professed, which profession relates back to the time of his taking the habit, for the certificate of the Bishop proves it in such a case, and also when a Mort d'Ancestor is brought, the writ for the heir shall be in the words *die quo habitum religionis assumpsit in quo professus fuit*, so that after the profession it relates back to the whole time since the taking of the habit, [judgment].—*HILLARY*. Can he not aliene and release between the taking of the habit and the profession?—*Pole*. Certainly not, because, after he has professed, the deeds which he executes after entry into religion are voidable.—*HILLARY*. Certainly that which you say is wrong; and

No. 53.

freres demandauntz vers la fille del quarte frere.— A.D. 1342.

W. Thorpe. Nous vous dioms qe le comune auncestre avoit un fitz H.¹ par noun, qe fuit en vie jour de cesty bref purchace, nient nome tenant ne demandant; jugement de bref.—*R.² Thorpe.* Voillez³ dire qil est ore en vie.—*SCHAR.* Nanyl; il suffit daverer le bref faux jour qil fuit purchace.—*R. Thorpe.* Dites ou il fuit en vie.—*W. Thorpe.* A N.⁴ el counte de Norfolk.—*R. Thorpe.* Bien est verite qil y avoit⁵ un tiel, mes devant le bref purchace il entra en religioun en lordre, &c., et illoques est⁶ profes⁷; jugement si par soun estre nostre bref puisse estre abatu.⁸—*W. Thorpe.* Et desicome vous avez conu lestre de luy, et navez pas allegge sa⁹ professioun¹⁰ jour de bref purchace, issint vostre bref faux adonques; jugement.—*R. Thorpe.* Et desicome vous navez pas dedit a ore qil est¹¹ profes, quel profession refiert a temps del habit pris, qar ceo prove certificacion Devesqe en tiel cas, et auxi en Mortdancestre porte,¹² le bref dirra pur leir *die*¹³ *quo habitum religionis assumpsit in quo professus fuit*, issint qe apres la professioun ceo refiert a tut temps puis labit pris.—*HILL.* Ne poet il¹⁴ entre abit¹⁵ pris et la professioun aliener et¹⁶ releesser?—*Pole.* Noun certes, qar,¹⁷ apres ceo¹⁸ qil¹⁹ est profes, les faits qil fait puis lentre en religion sount voidables.—*HILL.* Certes²⁰ vous dites mal; et en ceo cas, quant la

¹ MSS. of Y.B., R.

² R. is omitted from T.

³ 16,560 and 25,184, volez.

⁴ T., J.; Harl., A.

⁵ 25,184, ad.

⁶ est is omitted from T. and 25,184.

⁷ T., profees; Harl., professe.

⁸ T., puissez ceo bref abatre, instead of nostre bref puisse estre abatu.

⁹ 25,184, navez pas dedit a ore qil est profes quel, instead of avez conu lestre de luy et navez pas allegge sa.

¹⁰ Harl., possession.

¹¹ 16,560 and Harl., nest pas.

¹² porte is omitted from 25,184.

¹³ 16,560 and 25,184, de.

¹⁴ il is omitted from 16,560 and Harl.

¹⁵ 16,560 and Harl., labit.

¹⁶ 25,184, par.

¹⁷ T. and 25,184, quant.

¹⁸ ceo is from 16,560 alone.

¹⁹ T., 16,560, and 25,184, il.

²⁰ Certes is omitted from T.

No. 54.

A.D. 1342. in this case, when the profession is not denied, one will never send to the Bishop, but the time of the profession will be enquired of in this Court; and if you do not say something else you will be delivered.—*Pole*. We tell you that he was professed on the day of the purchase of the writ; ready, &c., where we ought to aver it.—*W. Thorpe*. He was not professed on the day of the purchase of the writ; ready, &c.; and we pray a writ to the Sheriff.—*HILLARY*. So you will have it, when the profession is not denied.—*R. Thorpe*, seeing that, said: We will deliver you; we can not deny the exception.—Therefore, &c.

Dower
where the
tenant ren-
dered, and
said fur-
ther that
he had
always
been ready
to render
dower.
And the
other side
said the
contrary.

(54.) § Dower was brought against a guardian.—*W. Thorpe*. We are ready to render, and we always have been so; and although this is the second day, it is the fault of the demandant, for we appeared at the first day, and she was essoined and delayed herself.—*R. Thorpe*. We pray seisin; and with a view to our damages we tell you that the husband died seised, and we are ready to aver that since his death the tenant has not been ready to render to us; for heretofore we brought a writ of Dower in respect of the same tenements against him, and he took his delays.—*W. Thorpe*. You can take no advantage of that, because you were non-suited, no more can you by anything done on this writ, because you have delayed yourself; and you shall not be admitted to aver generally that we were not ready, because as to one time you are hindered by this record on your present writ by your essoin, and as to another time you then lost the advantage by your non-suit.—*R. Thorpe*. At

No. 54.

profession n'est pas dedit, homme ne maundera jammes A.D. 1342.

al Evesque, mes les temps de la profession serra enquis ceinz; et si vous ne dies autre chose vous serrez delivers.¹

—*Pole* Nous vous dioms qil fuit profes jour du bref purchace; prest, &c., ou averer le devoms.—*W. Thorpe*. Qil ne fuit pas profes jour du bref purchace; prest, &c.; et prioms bref a Vicounte.—*HILL*. Auxi avez vous, quant la profession n'est pas dedit.—*R. Thorpe, videns illud, dixit*: Nous vous deliveroms; nous ne poms dedire lexception.—*Ideo, &c.*²

(54.)³ § Dowere porte vers gardeyn.—*W. Thorpe*. Nous sumes prest a rendre, et tut temps avoms este; et tut soit ceo le secunde jour, cest la defaute la demandaunte, qar nous apparumes al primer jour, el ele fuit essone et se⁴ delaia.—*R. Thorpe*. Nous prioms seisine; et pur noz damages vous dioms qe le baroun morust seisi, et prest sumes⁵ daverer qil nad pas este prest de nous rendre; qar altrefoitz nous portames⁷ bref de dowere vers luy, ou il⁸ prist ses⁹ delaies, de mesmes les tenementz.—*W. Thorpe*. De ceo ne poez prendre avantage, qar vous fuistes nounsuy, ne par rien fait en¹⁰ cesty bref nient plus,¹¹ qar vous avez mesmes delaie; et¹² de averer generalment qe nous ne fumes¹³ pas prest ne serrez pas resceu, qar dun temps estes destourbe par cestuy record en vostre bref aore, par vostre essone,¹⁴ et dautre temps vous perdistes lavantage¹⁵ par vostre noun suyte.—*R. Thorpe*. Nous prioms seisine au meyns

Dowere
ou le
tenant
rendi, et
outre dit
qil avoit
este tu
temps
prest. *E*
alii e
*contra.*⁴

¹ 25,184, deliverer.

² The words *Ideo, &c.*, are omitted from T. and 25,184.

³ From T., 16,560, 25,184, and Harl.

⁴ The words of the marginal note after Dowere are from 16,560 alone.

⁵ 16,560 and 25,184, soi.

⁶ sumes is omitted from 16,560 and Harl.

⁷ T., portassoms.

⁸ il is omitted from 25,184.

⁹ 25,184, ces.

¹⁰ T., par.

¹¹ plus is omitted from Harl.

¹² et is omitted from Harl

¹³ T., 16,560, and Harl., sumes.

¹⁴ The words par vostre essone are omitted from T. and 25,184.

¹⁵ After lavantage the words a autre temps are inserted in T. and 25,184.

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A.D. 1342. any rate we pray seisin of the land now, for that is clear.—*W. Thorpe*. You shall not have it unless you take it from us as from one who was always ready to render, &c.—*R. Thorpe*. What you say is wrong, for the action is confessed; and if you were to say that the husband did not die seised, you would not be admitted thereto; and whereas we mention that you have not been ready, and we have shown how, that is only evidence to show that he has not been ready. And as to that which you mention that we were non-suited, that was because you vouched with the consent of the attorneys, whereupon the inquest was joined; and because the voucher was, contrary to law, accepted for you who are guardian in a writ of Dower, she would not continue that process; and for that reason we were non-suited; and so it was not our default, but you thus took your delays.—*W. Thorpe*. We render the dower, by leave of the Court; and [we say] that we have been always ready to render it; ready, &c.—And the other side said the contrary.—*SHARDELOWE* adjudged seisin to the demandant, and asked further where the inquest should be taken.—*Pole*. Sir, in this Court, for it is agreed by the parties.—*SHARDELOWE*. You say truly.

Formedon
in respect
of a
knight's
fee.

(55.) § Formedon in the Descender, in respect of a

No. 55.

de la terre a ore, qar ceo est clere.—*W. Thorpe.* Vous A.D. 1342.
 ne laveretz pas si vous nel preignes de nous come de
 celui qe fuit tut temps prest a rendre, &c.—*R. Thorpe.*
 Vous dites mal, qar laccion est conu; et si vous deisses
 qe le baroun ne morust pas¹ seisi vous ne serrez pas
 resceu; et ceo qe nous parloms qe vous navez² pas este
 prest, et avoms moustre coment, ceo nest forsque evidence
 pur moustre qil nad pas este prest. Et quant a ceo qe
 vous parlez qe nous fumes³ noun suy, ceo fuit pur ceo
 qe par assent des attournes vous avez vouche, [sur quei
 enqueste fuit joint; et pur ceo qe le voucher]⁴ fuit
 countre ley accepte pur⁵ vous qestes gardeyn en bref de
 Dowere, ele ne voleit pas continuer cele proces, par quei
 nous fumes noun suy; et issint ne fuit ceo pas⁶ nostre
 defaute, mes vous preistes issi voz delaies.—*W. Thorpe.*
 Nous rendoms par conge dowere; et qe tut temps avoms
 este prest a rendre,⁷ prest, &c.—*Et alii e contra.*—
SCH. agarda seisine a la demandante, et demanda outre
 ou lenqueste serra pris.—*Pole.* Sire, ceinz, qar cest
 avise des parties.—*SCHARD.* Vous dites verite.

(55.)⁸ § Descender, de la moite⁹ de la quarte partie

Forme de
doun de
un fee de
chivaler.

¹ 16,560 and Harl., morust, instead of ne morust pas.

² 25,184, naverez.

³ 16,560 and Harl., sumes.

⁴ The words between brackets are omitted from Harl.

⁵ Harl., qe.

⁶ Harl., pur.

⁷ The words a rendre are omitted from Harl.

⁸ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o 311, d. It there appears that the action was brought by Robert de Dol against Robert de Northwode in respect of a fourth part a moiety of one knight's fee, with

the appurtenances, which Robert de Manekeseye gave to Hugh de Dol, and Sibyl his wife, in special tail. According to the count, "idem Hugo et Sibilla fuerunt seisiti ut de feodo et jure secundum formam, &c., tempore pacis, tempore Edwardi Regis avi domini Regis nunc, capiendo inde expletia ad valentiam, &c." Nothing appears on the roll as to the details of the esplees—homage, escuage, &c.; but the descent is traced from the donees to Robert their son, and from him to the demandant.

⁹ The words de la moite are omitted from 25,184.

No. 55.

A.D. 1842. moiety of a fourth part of one knight's fee.—*Derworthy* counted that he was seised as of fee and of right according to the form, taking the esplees as in homage, escuage, reliefs, wardships, marriages, and other kinds of issues of a moiety of a fourth part of a knight's fee, as of fee and of right, according to the form.—*Thorpe*. Judgment of the writ, for this does not lie in demand by a *Præcipe*, because it does not lie in demesne.—*Derworthy*. No more does the keepership of a Bedelary, nor does common for a certain number of beasts, or advowson lie in demesne; and yet a *Præcipe quod reddat* lies for them.—*Gaynesford*. An assise lies for a Bedelary and for pasture; not so here; and if you are right you can distrain.—*Derworthy*. That is to our action, and we can not have any other writ; for if our ancestor aliened, or lost by default, we have no other recovery.—*Thorpe*. You can distrain, even though your ancestor may have aliened; and if you are to demand by writ, it should be by writ of Right, just as in the case of an advowson.—*SHARDELOWE*. You never saw the issue in tail have a writ of Right of advowson.—*Thorpe*. What should he have then, if his ancestor lost by default on a possessory writ?—*SHARDELOWE*. Let him aid himself by Statute.¹—*Thorpe*. The Statute

¹ 13 Edw. I. (Westm. 2) c. 1. (*De donis conditionalibus*).

No. 55.

dun fee de chivaler.—*Derworthi* counta qil fuit seisi A.D. 1342.
 come de fee et de dreit par la fourme,¹ pernant les
 esplees come en homage, escuage, reliefs, gardes,
 mariages, et altre manere dissue de moite de la quarte
 partie de fee de chivaler, come de fee et de dreit par la
 forme.—*Thorpe*. Jugement de bref, qar ceo² ne gist³
 pas en demande par *Præcipe*, qar ceo ne chiet pas en
 demene.⁴—*Derworthi*. Ne plus⁵ fait la garde de
 Bedelrie,⁶ ne comune a certeyn nombre de bestes, ne⁷
 avoweson ne cheent⁸ pas⁹ en demene; et si¹⁰ gist
Præcipe quod reddat.—*Gayn*. De Bedelrie et pasture
 gist assise; *non sic hic*; et si vous eiez resoun vous
 poez destreyndre.¹¹—*Derworthi*. Cest a nostre accion,
 et altre bref¹² ne poms aver; qar si¹³ nostre auncestre
 aliena, ou perdist par defaute, nous navoms¹⁴ altre
 recoverir.¹⁵—*Thorpe*. Vous poez destreindre tut fuit
 ceo qe vostre auncestre aliena; et si vous demanderez
 par bref ceo serroit par bref de dreit, si bien come¹⁶
 davoweson.—*SCHAR*. Unques ne veistes¹⁷ issue en taille
 aver bref de dreit davoweson.—*Thorpe*. Quai averoit
 il donques si soun auncestre perdist par defaute¹⁸ a un
 bref de possession?—*SCHARD*. Soi eide¹⁹ par estatut.

¹ 16,560, force.² T., feo.³ 16,560, chiet; Harl., chit.

⁴ The plea in abatement of the writ appears thus in the record:—
 "Dicit quod cum prædictus Robertus de Dol petat versus cum prædictam quartam partem cum pertinentiis, supponendo illam esse liberum tenementum, &c., quæ quidem quarta pars non est liberum tenementum nec cadit in dominico, sed in dominio et districtione, unde petit judicium de brevi."

⁵ T. and 25,184, ne, 16,560, ceo.⁶ T. and 25,184, la Bedellerie.⁷ 16,560 and Harl., en.⁸ T., chesent; 16,560 and 25,184, chiet.⁹ pas is omitted from 16,560.¹⁰ si is omitted from 16,560 and Harl.¹¹ 25,184, dire.¹² bref is omitted from 25,184.¹³ si is omitted from 25,184.¹⁴ 16,560, avoms.¹⁵ 25,184, respouns.¹⁶ T., sicome, instead of si bien come.¹⁷ T., feistes.¹⁸ 25,184, bref.¹⁹ T., Seide, Harl. Soit eide.

Nos. 56, 57.

A.D. 1342. has no operation in the case.—*Derworthy*. A writ of Right lies for a knight's fee; why not then any other action? And by a demand for a knight's fee I shall, perhaps, recover 20*l.* of rent. And he has demanded view.—*Thorpe*. If you admit that there is rent you will abate your writ; and view does not affirm the writ as to the matter of it; and if your ancestor aliened or lost, and you are right, you can distrain.--*Derworthy*. It is not so.—SHARDELOWE. He will never have any other writ.

Note :
Quare
impedit.

(56.) § Note that the King brought a *Quare impedit* against the Bishop of L., who came by the Grand Distress and pleaded to the inquest, and afterwards at another day made default; and therefore the King had a writ to the Bishop. And this was by the common law. *Quære* if the defendant had first come by the *Pone per vadium*.

Scire
facias.

(57.) § Thomas the son of Peter Breuse¹ sued a *Scire facias* against John Moubray and Joan his wife in

¹ As to this name see Y.B., Easter, 16 Edw. III., No. 31 (p. 222, note 1).

Nos. 56, 57.

—*Thorpe*. Statut ne oeuvre¹ pas en le cas.—*Derworthi*. A.D. 1342.

Bref de dreit gist de fee de chivaler; pur quei nyent adonques altre accion? Et par demande de fee de chivaler recoverai jeo en² cas xxli. de rente. Et il ad demande la viewe.—*Thorpe*. Si vous conisiez qil y ad rente vous abaterez vostre bref; et la viewe nafferme pas³ bref⁴ en la matere⁵; et si vostre auncestre alienast ou perdist, et vous eiez resoun, vous poez destreindre.⁶—*Derworthi*. *Non est ita*.—SCHARD. Il navera jainmes altre bref.⁷

(56.)⁸ § *Nota* qe le Roi porta *Quare impedit* vers Nous : Levesqe de L,¹⁰ qe vynt par la graunt destresse et *Quare impedit*,⁹ pledà al enqueste, et puis a un altre jour fist defaute, par quei le Roi¹¹ ad bref a Levesqe. *Et hoc per legem communem*. *Quere* si le defendant primes ust venu par *Pone per valium*.¹²

(57.)¹³ § Thomas le fitz Piers Brewes suist *Scire facias* vers Johan Moubray et Johane sa femme de *Scire facias*. [Fitz., *Exchange*, 2

¹ T., oeuvre; 25,184, oeuvre.

² T., par.

³ pas is omitted from Harl.

⁴ bref is omitted from 25,184.

⁵ 16,560 and Harl., manere.

⁶ Destreindre is omitted from T.

⁷ According to the record there were several adjournments "salvis partibus rationibus suis hinc inde dicendis, &c." At length, in Easter Term, in the 19th year of the reign, the tenant "omisso placito suo prædicto, dicit quod actio per hujusmodi breve de formadonationis competit petentibus de tenementis alienatis post Statutum de donis conditionalibus editum, &c., et dicta quarta pars alienata fuit ante editionem prædicti Statuti." The demandant replied that the alienation was after the Statute, and on this issue was

joined. The jury found that the alienation was "diu ante Statutum," and judgment was given for the tenant. (but from some different report).]

⁸ From T., 16,560, 25,184, and Harl.

⁹ The word *Nota* is omitted from 25,184, and the words *Quare impedit* from all the MSS. except 25,184.

¹⁰ Harl., S.

¹¹ The words le Roi are omitted from 25,184.

¹² The last sentence is from 16,560 alone.

¹³ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Easter, 16 Edw. III., R^o. 328, for which see Y.B., 16 Edw. III., Part I. Appendix, p. 293.

No. 57.

A.D. 1342. respect of certain manors, on a fine levied between William Breuse the elder and Richard Breuse, by which William rendered the manors to Richard Breuse and the heirs of his body, &c., remainder to Peter Breuse and the heirs of his body, &c., as whose son Thomas demands execution. And exception was taken to the Sheriff's return because there was false Latin in it.—This was not allowed.—*Pole*. He ought not to have execution; for we tell you that William Breuse, who was party to the fine, died seised, and after his death his lands were seized into the hands of the King the grandfather, &c., wherefore William's son William sued the lands out of the King's hand, and had them, because the office served him; and Richard Breuse sued to the King to have execution on the fine, &c.; and because those tenements were parcel of the Barony of Bramber, which is holden of the King, the King would not allow the barony to be dismembered; and also because the fine was levied before the Statute *De finibus*,¹ and was without license from the King, the King did not will that execution should be had; wherefore a composition was entered into before the King, by which William the son of William partly gave the manor of Tetbury and other manors in demesne and partly granted them in reversion—and he showed which and how—to that same Richard, to hold by the same form as this fine purports. And this same Richard released all his right, &c., in the tenements demanded, by force of that composition. And *Pole* made *profert* of an indenture testifying all this, to which William the son of William, Richard, Peter the father of Thomas, and a woman a reversion from whom was granted had put their seals. And he said that Richard died

¹ 27 Edw. I. c. 1.

No. 57.

certains maners hors dune fyne leve entre William A.D. 1342.
 Brewes leigne et Richard Brewes,¹ [par quel William
 rendy les maners a Richard Brewes]² et les heirs de
 soun corps, &c. [le remeyndre a Piers³ Brewes et les
 heirs de soun corps, &c.],⁴ com qi fitz Thomas demande
 execucion.—Et le retourn de Vicounte fuit challange pur
 ceo qil y avoit faux Latin.—*Non allocatur*—*Pole*.
 Execucion ne deit il aver; qar nous vous dioms qe
 William Brewes, qe fuit partie a la fyne, morust seisi,
 apres qi mort ses terres furent seisis en la mayn le Roi
 laiel, &c., par quei William le fitz William⁵ suyt les
 terres hors de sa mayn, et les avoit, pur ceo qe office luy
 servist,⁶ vers qi Richard Brewes suist execucion hors
 de la fyne, &c.; et pur ceo qe ceux tenementz furent
 parcelle de la Baronie de Brembre, qe t tenu du Roi, le
 Roi ne voleit suffrer⁷ qe la baronie fuit demembre; et
 auxi pur ceo qe la fyne se leva devant lestatut *De*
finibus [et saunz conge du Roi, le Roi]⁸ ne voleit pas
 qe execucion se fist; par quei composicion se prist
 devant le Roi, par quel William le fitz William dona le
 maner de Tettebury⁹ et altres maners partie en demene
 et partie graunta en reversion—et moustra quex et
 coment—a mesme cely Richard, a tener par mesme la
 forme com ceste fyne purport. Et mesme cely Richard
 relessa tut soun dreit, &c., en les tenementz demandez
 par force¹⁰ de cele composicion—et moustra endenture qe
 tut ceo tosmoigna—a quel William le fitz William,
 Richard,¹¹ Piers pere Thomas, et une femme de qi
 reversion fuit graunte avoint mys lour seals. Et dit qe

¹ Richard Breuse was in remainder. As to the parties to the Fine see the record as above.

² The words between brackets are omitted from 25,184.

³ 16,560, Perers; 25,184, Peres.

⁴ The words between brackets are omitted from Harl.

⁵ William is omitted from T.

⁶ 25,184, suist.

⁷ 16,560, soeffrer; 25,184, seoffrer.

⁸ The words between brackets are omitted from 16,560 and Harl.

⁹ T., Toteburi; 25,184, Teutebury; Harl., Tettebir.

¹⁰ Harl., forme.

¹¹ T., Brewes.

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A.D. 1342. thus seised of the manors taken as equivalent, that after his death Peter entered, and that now on this day Thomas as Peter's son and heir is seised, accepting the composition; judgment whether execution, &c.—*Stouford*. This answer is double; one is that the fine was levied before the Statute, the other is that it is contrary to the composition, &c., and the exchanges, &c.—**SHARDELOWE.** In a *Scire facias* one may mention any point he pleases which lies in law, and the Court ought to decide on it, and on every point, and afterwards he may inention anything that lies in fact.—*Thorpe*. When we say that the fine was levied before the Statute, that is not by way of bar to execution, but in relation to the King's motion as a reason why he was not willing that execution should be had, &c.—*Derworthy*. As to all the manors except Tetbury we tell you that we hold them by force of the same fine whereof we demand the execution, and to which John Moubray's ancestor, whose heir he is, was party; judgment whether it lies in his mouth to say that our estate is any other. And as to Tetbury we tell you that at the time of that composition Richard and Peter were under age, not admitting moreover what they have alleged; and, as to Richard's release which they speak of, you see clearly that it is not a thing by which the possession passed and which could be called an exchange, nor does it contain a word about exchange, but an extinguishment of a *chese in action* which could bar only for his own time, and we are not demanding anything from him. And we tell you that his ancestor William, whose heir he is, confirmed the same manor to

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Richard morust issint seisi des maners pris en value, A.D. 1342. apres qi mort Piers entra, et huy ceo jour Thomas com fitz et heir seisi,¹ acceptaunt la composicion ; jugement si execucion, &c.—*Stouf*. Cest respons est double ; un qe la fyne se leva devant Statut, altre est qe countre les composicions, &c., et ² leschaunges, &c.—*SCHAR*. En un *Scire facias* homme poet dire quant qil voet qe chiet en ley, et Court sur ceo doit ³ ajuger,⁴ et sur chesqun point, et puis dire chose qe chiet en fait.—*Thorpe*. Ceo qe nous parloms qe la fyne se leva avant Statut ceo nest pas pur⁵ barre al execucion mes la mocion⁶ le Roi pur quei il ne voleit qe execucion se freit, &c.—*Derworthi*. Quant a touz les maners sauf Tettebury⁷ nous vous dioms qe nous les tenoms par force de mesme la fyne dount nous demandoms execucion, et a quel soun auncestre, qi heir Johan Moubray est, fuit partie ; jugement si a dire qe nostre estat soit⁸ altre en sa bouche gise. Et quant a Tettebury⁹ nous vous dioms qe al temps de cele composicion Richard et Piers¹⁰ furent deinz age, nient conisaunt outre ceo qil ount allegge ; et vous veiez bien qe ceo qil parlent del relees Richard ceo nest pas chose par quele possession passa¹¹ qe purreit¹² estre dit eschaunges,¹³ ne ceo¹⁴ comprennent pas parole deschaunge, mes un estenguissement¹⁵ de chose en accion qe ne poet barrer forsque pur soun temps ; et nous demandoms rien de luy. Et vous dioms qe William soun auncestre, qi heir il est, conferma mesme le maner a

¹ seisi is omitted from 25,184.² The words composicions, &c., et are from T. alone.³ 16,560 and Harl., duist.⁴ 25,184, aviser.⁵ pur is omitted from 16,560 and Harl.⁶ Harl., mencion.⁷ T., Teutebury ; 25,184, Tyntebury.⁸ 25,184, est.⁹ T., Tutebury ; 25,184, Teutebury.¹⁰ 16,560, Perers.¹¹ passa is omitted from 16,560 and Harl.¹² T., purra.¹³ 16,560, 25,184, and Harl., estraunge.¹⁴ 16,560, se ; the word is omitted from Harl.¹⁵ 16,560 and Harl., esteindre ; 25,184, esteignissement.

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A.D. 1342. Peter our father, and Agnes whom he was to take to wife, and the heirs of their bodies, of whom we are the issue—(and he made *profert* of a deed, &c.)—so it does not lie in his mouth to say that our estate is other than that which is supposed by his deed; and we demand judgment and pray execution.—*Thorpe*. This replication is double; one is that those who were parties were under age; another is that what we have alleged could not be an exchange although they had been of full age; and a third point is that we can not say that the manor of Tutbury was taken and continued in exchange.—*Stouford*. You also have spoken of several matters to oust us from execution, and it is reasonable that by so many answers we should be heard to say why we should have execution.—*Thorpe*. Whatever we have said lies in law and record, and you in return plead in law and in fact, and if we take issue on one, the others will, as it were, be admitted by us.—*SHARDELOWE*. What he says about nonage can not make an issue, because exchanges made by an infant, when they are continued, bar as much as if he had been of full age.—*Thorpe*. You know well that a release by an infant is totally void; wherefore in this case it would make a good issue; and we demand judgment whether the law puts us to answer this treble replication.—And then *Stouford* said:—We do not admit that Peter our father was of full age, &c.; and you do not charge us with an office found, or with the composition, or with the fine levied before the Statute or without the King's license, but only that we have an equivalent; to that we tell

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Piers¹ nostre pere, et Agnes² quele il fuit a prendre a A.D. 1342. femme, et les heirs de lour³ corps, de qi nous sumes issue;—[et moustra fait, &c.]⁴—issi ne gist pas en sa bouche a dire qe nostre estat soit altre qe par soun fait est suppose; et demandoms jugement et prioms execucion.—*Thorpe*. Ceste replicacion est double; un est qe ces qe furent parties furent deinz age; altre est qe ceo qe nous avoms allegge ne poet estre eschaunges tut ussent ils este de pleyne age; et le terce poynt⁵ est qe nous ne poms pas dire⁶ qe le maner de Tettebury⁷ soit pris et continue en eschaunges.—*Stouf*. Auxi avez vous parle de plusours choses pur ouster nous dexecucion, et il est resoun qe par taunt des respouns⁸ nous soions oy a dire⁹ pur quei nous averoms execucion.—*Thorpe*. Quant qe nous parloms chiet en ley et recorde, et vous pledez arere en ley et en fait, et si nous¹⁰ pernomms issue sur lun, les autres serrount com conuz de nous.—*SCHARD*. Ceo qil parle deinz age ne poet pas faire issue, qar eschaunges¹¹ fait par enfant barrent, ou ils sount¹² continues, si avant com il fuit de pleyn age.—*Thorpe*. Vous savez bien qe relees de enfaunt est tut voide; par quei ceo freit en ceo cas bon issue; et demandoms jugement si ley nous mette a ceste replicacion treble a respondre.—Et puis *Stouf*. Nous ne conisoms¹³ pas qe Piers¹ nostre pere fuit de pleyne age, &c.; et doffice trove, ne composicion, ne fyne leve devant Statut ne saunz conge le Roi, vous ne¹⁴ nous¹⁵ charges¹⁶ pas, mes ceo soulement qe nous avoms en value;

¹ 16,560, Perers.² 16,560, Agneis.³ 25,184, son.⁴ The words between brackets are omitted from Harl.⁵ 16,560, partie.⁶ All the MSS. except 25,184, de-dire.⁷ T., Tutbury.⁸ T. and 25,184, resouns.⁹ The words a dire are omitted from Harl.¹⁰ nous is omitted from T.¹¹ 16,560, estrange.¹² 25,184, serreit.¹³ 25,184, conusoms.¹⁴ ne is omitted from T. and 25,184.¹⁵ nous is omitted from Harl.¹⁶ 16,560, nous ne chargeoms, instead of vous ne nous charges.

Nos. 58, 59.

A.D. 1342. you that it can not be said to be an equivalent, for the reason above; and we demand judgment.—*Thorpe*. We charge all; and we demand judgment.—And they were adjourned.—And note that *Thorpe* alleged the fine to have been levied before the Statute, as meaning that privies and strangers might then avoid it, &c.

Quid juris clamat. (58.) § *Quid juris clamat* against tenants for term of the life of one Agnes, after whose death the reversion was granted to the plaintiff; and they came and confessed the tenancy to be such as was supposed by the note, but rendering to Agnes, for whose life they held, ten marks *per annum* for her life, which they were ready to render.—SHARDELOWE. The fine can not make mention of the charge due to Agnes, nor will anything be lost to Agnes if she have any charge, &c.—Therefore the render was accepted.—And note that he will have a writ of seisin and the note will be engrossed, because the render is in lieu of attornment.

Formedon. (59.) § *Præcipe Johanni de B., et A., uxori ejus, quod juste, &c., reddant Johanni filio Thomæ de A., &c., et quod post mortem W., et Thomæ filii W. præfato Johanni filio Thomæ, filio ejusdem Thomæ, &c., descendere debet.*—*Pole*. Judgment of the writ, for the words of the writ suppose that John might twice be the son of Thomas.—SHARDELOWE. The form of the writ is affirmed by you by reason of the view; and, even though the objection had been taken before view, still the writ is good, because there

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a ceo vous dioms qe ceo ne¹ poet estre dit en value, A.D. 1342. *causa ut supra*; et demandoms jugement.—*Thorpe*. Nous chargeoms tut, et demandoms jugement.²—*Et adjornantur*.³—*Et nota* qe *Thorpe* alegga la fin leve avant Statut a tiel entent qe prives et estraunges adonques les poent voider, &c.⁴

(58.)⁵ § *Quid juris clamat* vers tenantz⁶ a terme *Quid juris clamat*. de la vie une Agnes, apres qi mort la reversion fuit graunte al pleintif, qe vyndrent et conisoient la tenance tiele come fuit suppose par la note, mes rendaunt a Agnes,⁷ a qi vie ils tyndrent, x marcz par an pur sa vie, et prest furent a rendre.—SCHARD. La fyne ne poet pas faire mencion de la charge due⁸ a Agnes, ne⁹ rien ne¹⁰ deperira a Agnes si ele eit asqune charge, &c.—Par quei le rendre fuit accepte.—*Et nota* qil avera bref de seisine, et la note serra engrosse, qar le rendre est en lieu dattournement.

(59.)¹¹ § *Præcipe Johanni de B., et A., uxori ejus, quod juste, &c., reddant Johanni filio Thomæ de A., &c., et quod post mortem W.¹² et Thomæ filii W. præfato Johanni filio Thomæ filio ejusdem¹⁴ Thomæ, &c., descendere debet.*—[*Pole*. Jugement du bref, qar les paroules du bref supposent qe Johan deux foitz purroit estre le fitz Thomas].¹⁵—SCHAR. La forme du bref est afferme par vous par la viewe; et, tut fuit ceo devant la viewe, le bref est bon,

¹ 25,184, com, instead of ceo ne.

² The words et demandoms jugement are omitted from T.

³ The words *Et adjornantur* are omitted from 16,560 and Harl.

⁴ The last sentence is omitted from T. and 25,184.

⁵ From T., 16,560, 25,184, and Harl.

⁶ In Harl. the words come fut suppose are inserted after tenantz.

⁷ 16,560, Aigneis,

⁸ 16,560, duwe; 25,184, de W.;

the word is omitted from T.

⁹ 16,560 and Harl., et.

¹⁰ ne is omitted from 16,560.

¹¹ From T., 16,560, 25,184, and Harl.

¹² In 16,560, 25,184, and Harl., the marginal note is *Descendere*.

¹³ 25,184, B.

¹⁴ Harl., et heredi.

¹⁵ The words between brackets are omitted from Harl.

No. 59.

A.D. 1342. is a John tenant and a John demandant, so that it is necessary to assign, in every place in the writ, a diversity between the two, and so that when he has given one John a surname at the beginning of the writ by the words John son of Thomas, he ought afterwards to follow it throughout the writ; and when, therefore, he comes to the words *et quod post mortem, &c., præfato Johanni filio Thomæ*, this son of Thomas is only by way of surname, and the other *filio ejusdem Thomæ* serves to show the descent.—*Pole*. One son of Thomas would well serve for both purposes.—*SHARDELOWE*. The writ seems to us to be good; answer.—*Pole* vouched one B. and his wife, as cousin and heir of J.—*R. Thorpe*. Neither those whom he vouches nor any of the ancestors of the wife, whose heir she is, ever had anything after the seisin, &c.—*Pole*. You shall not be admitted to that, for your ancestor, whose heir you are, acknowledged the same tenements to be the right of the ancestor of her whom we vouch as those which her ancestor had of his gift, and her ancestor rendered back, &c., remainder to us, by which remainder we are tenant; judgment whether you shall be admitted to the averment.—*Thorpe*. The fine does not prove that he was seised after the gift, or that she who is vouched is heir of her ancestor, and the averment is given to us by Statute¹; judgment, &c.—*SHARDELOWE*. If a bastard or a younger son be vouched as heir, the demandant can counterplead

¹ 3 Edw. I. (Westm. 1), c. 40.

No. 59.

qar il y ad Johan tenant et Johan demandaunt, issint A.D. 1342.
 qil covient doner, en chesqun lieu du bref, diversite entre
 les deux, et ¹ issi qe ² quant il luy ³ ad done surnoun ⁴ al
 comencement du bref par Johan fitz Thomas, il le ⁵ deit
 pursuyre ⁶ apres par tut le bref; et quant donques il vynt
 al *et quod post mortem, &c., præfato* ⁷ *Johanni filio Thomæ*
 cest Fitz Thomas ⁸ nest forsque pur surnoun, et lautre
filio ejusdem Thomæ ceo ceert ⁹ a la descente.—*Pole*.
 Lun ¹⁰ fitz Thomas ¹¹ servireit bien pur lun et pur ¹² lautre.
SCHAR. Il nous semble le bref bon; responez.—*Pole*
 voucha un B. et sa femme, ¹³ com ¹⁴ cosyn et heir J.—
R. Thorpe. Ceux qil vouche ne nul des ¹⁵ auncestres la
 femme, ¹⁶ qi heir ele est, navoit unques rien puis la
 seisine, &c.—*Pole.* A ceo ne serrez resceu, qar vostre
 auncestre, qi heir vous estez, conust mesme les tenementz
 estre le dreit launcestre cele qe nous vouchoms, come ceo
 qil ¹⁷ avoit de soun doun, et il rendist arere, &c., le
 remeyndre a nous, par quel ¹⁸ remeyndre nous sumes
 tenant; jugement si al averement serrez resceu.—
Thorpe. La fyne ne prove pas qe puis le doun il fuit
 seisi, ne qe cele qest vouche soit heir soun aun-
 cestre, et laverement nous est done par statut; juge-
 ment, &c.—*SCHARD.* Si bastard ou fitz puisne soit
 vouche come heir, le demandant le poet countrepleder.—

¹ et is omitted from T.² qe is omitted from 25,184.³ luy is from 16,560 alone.⁴ T., diversite de surnoun.⁵ T., luy; the word is omitted from 16,560 and Harl.⁶ 16,560, pursuer.⁷ 16,560, *præfati*.⁸ The words cest Fitz Thomas are omitted from T. and 16,560.⁹ 16,560 and Harl., qe voet, instead of ceo ceert.¹⁰ 16,560, Nul.¹¹ All the MSS., except 16,560, Johan.¹² pur is omitted from T. and 25,184.¹³ The words et sa femme are omitted from 16,560 and Harl.¹⁴ com is omitted from T. and 25,184.¹⁵ T., de lour; Harl., de ces, instead of des.¹⁶ The words la femme are omitted from 16,560 and Harl.¹⁷ T., qe ele.¹⁸ The words rendre a nous par quel are inserted after quel in Harl.

No. 59.

A.D. 1342. it.—*Pole*. No; that would enable them to escape from the warranty when they came; but, if they were vouched while under age, it would be otherwise.—*STONORE*. He has said enough to have his voucher.—*R. Thorpe*. The tenants have vouched themselves, and therefore they shall not be admitted to this voucher without cause shown.—*Pole*. We tell you that a fine was levied by which the tenements were acknowledged to be the right of our ancestor, &c., and he rendered back, &c., remainder to the woman who is now vouched and the heirs of her body, and remainder over to a stranger in fee simple; so in order to save the entail, and also because we can not in virtue of that tenancy vouch over in respect of the fee simple, we will maintain that voucher.—*Thorpe*. He shows that the woman is sole tenant, in which case she shall never vouch herself, unless to save the estate of another who holds jointly with her; wherefore we do not think that this is a cause.—*HILLARY*. She has only an estate tail, and there is no reversion in fee simple to her, but a remainder over in fee tail to a stranger; so she loses her recovery and voucher if she be not admitted to vouch herself.—*Thorpe*. That has been often adjudged.—*HILLARY*. Not in this case.—*Thorpe*. We have other matter, and therefore we will pass on; and we tell you that as heir of J. she shall not be vouched, for J. had a brother who had issue one B., and he is nearer in blood; judgment, &c.—*Pole*. It is very true that B. is J.'s cousin and heir,—and we vouch him to warrant,—and because he is under age we pray that the parol may demur.—*Thorpe*. Neither he whom

No. 59.

Nanyl; ceo¹ serra destoutre de la garrantie quant A.D. 1342. il vendreint²; mes sils³ fuissent⁴ vouchez deinz age altre serroit].⁵—*STON.* Il ad⁶ dit assez pur aver soun voucher.—*R. Thorpe.* Les tenantz ount vouche eux mesmes, par quei a ceo voucher saunz cause ne serrount⁷ ils pas resceu.—*Pole.* Nous vous⁸ dioms qe fyne se leva par quel les tenementz furent conuz⁹ a nostro auncestre, &c., et il rendit arere, &c., le remeyndre a la femme qe ore est¹⁰ vouche, et les heirs de soun corps, et outre le remeyndre a un estraunge en¹¹ fee simple; issint pur salver la taille, et auxi pur ceo qe nous ne poms de cele tenance voucher outre de¹² fee simple, si voloms meyntener cel voucher.—*Thorpe.* Il moustre qe la femme est sole tenant, en quel cas ele vouchera jammes luy mesme, si ceo ne fuit pur salver altri estat qe tenist joint ove luy; par quei nentendoms pas qe ceo soit cause. *HILL.* Ele nad forsqe taille, nule reversion de fee simple en luy, mes remeyndre de fee taille outre a un¹³ estraunge,¹⁴ issint qe ele perde soun recoverir et voucher si ele ne soit resceu de voucher luy mesme.—*Thorpe.* Ceo ad este sovent ajuge.—*HILL.* Noun pas en ceo cas. *Thorpe.* Nous avoms altre matere, et pur ceo voloms passer; et vous dioms qe com heir J. ne serra ele vouche, qar J. avoit un frere qad issue un B., qest pluis pres de¹⁵ saunk; jugement, &c.—*Pole.* Bien est verite qe B. est soun cosyn et heir, et luy vouchoms¹⁶ a garrantir, et pur ceo qil est deiuz age nous prioms qe la parole demoerge. *Thorpe.* Celuy qe vous vouchez ne nul de ses auncestres

¹ 16,560 and 25,184, qar.² 16,560, vendreit.³ T., quant il.⁴ 25,184, feussent.⁵ The words between brackets are omitted from Harl.⁶ T., La ad il, instead of Il ad.⁷ 25,184, serreint.⁸ vous is from 16,560 alone.⁹ Harl., donez.¹⁰ est is from T. alone.¹¹ 16,560 and Harl., de.¹² 25,184, le.¹³ 16,560, 25,184, and Harl., en instead of a un.¹⁴ 25,184, eschaunge.¹⁵ Harl., au.¹⁶ T., voucha.

No. 60

A.D. 1342. you vouch nor any of his ancestors ever had anything since the seisin of our ancestor to whom the gift was made, &c.—*Pole*. You shall not be admitted to that, contrary to the fine to which your ancestor, whose heir you are, was party, by which it is supposed that the ancestor of the vouchee had the tenements by gift from your ancestor—(and he alleged the fine as above)—and by virtue of which fine we are in by our remainder.—*Thorpe*. The fine does not prove the seisin of his ancestor since the seisin of our ancestor; and since this averment which we tender is given by Statute¹ and is not in avoidance of the fine, which averment you refuse, judgment, and we pray seisin of the land.—*HILLARY*. Let the voucher stand.—And the demandant said that the vouchee was of full age, and therefore had a writ to cause him to come and be inspected.

Voucher
in virtue
of special
matter.

(60) § *Pole* vouched T. as son and heir of Joan.—*Thorpe*. We tell you that one A. devised the tenements jointly to one W., against whom the writ is brought, and to Joan ancestor of T. who is vouched, and to Thomas Rabuk (then husband of this same Joan) against whom the writ is brought together with W., who were seised by the devise; after the death of Joan, W. and T. Rabuk were tenants by force of the devise, without this that he who is vouched or any of his

¹ 3 Edw. I. (Westm. 1), c. 40.

No. 60.

navoient unques¹ rien puis² la seisine nostre auncestre a A.D. 1842. qi le douñ fuit fait, &c.—*Pole*. A ceo ne serrez resceu countre la fyne a³ quele⁴ vostre auncestre, qi heir vous estes, fuit partie, par quele est suppose qe launcestre le vouche avoit les tenementz del douñ vostre auncestre—(el alleggea la fyne *ut supra*)—et par quele fyne nous sumes einz en nostre remeyndre.—*Thorpe*. La fyne ne prove pas⁵ la seisine soun auncestre puis la seisine nostre auncestre; et del houre qe cest averement quele nous tendoms nous⁶ est done par statut et nest pas en voidaunce de la fyne, quele averement vous refusez, jugement, et prioms seisine de terre.—*HILL*. Estoise le voucher.—Et le demandant dit qil est de pleyne age, par quei il ad bref⁷ de luy faire venir destre vieu.

(60.)⁸ § *Pole* voucha T. come fitz et heir Jone.¹⁰—*Thorpe*. Nous vous dioms qun A. devisa¹¹ les tenementz joyntement a un W., vers qi le bref est porte, et a Jone¹² auncestre T. qest vouche, [et a Thomas Rabuk adonques baron mesme cesty Johane vers qi le bref est porte auxint ove W.],¹³ qe seisi furent par la devise; apres la mort J., W. et T. Rabuk¹⁴ tenent par force del devise,¹⁵ saunz ceo qe celuy qest vouche ou nul de ses auncestres

Voucher
par matere
especial.⁹
[Fitz.,
Counter-
ple de
Voucher,
38.]

¹ unques is omitted from T. and 25,184.

² 25,184, de.

³ 16,560, la.

⁴ 25,184, qi.

⁵ 16,560, qe.

⁶ nous is omitted from T. and 25,184.

⁷ T., il pria; 25,184, ist bref, instead of il ad bref.

⁸ From T., 16,560, 25,184, and Harl.

⁹ The words par matere especial are from Harl. alone.

¹⁰ All the MSS. except 25,184, J.

¹¹ 16,560 and 25,184, devisa.

¹² The words et a Jone are omitted from T. and 16,560.

¹³ The words between brackets are omitted from all the MSS. except 25,184.

¹⁴ The words et T. Rabuk are from 25,184 alone.

¹⁵ T., demise; 25,184 and Harl., la devise, instead of force del devise.

No. 61.

A.D. 1342. ancestors ever had any other possession, &c.; judgment whether on that possession he can maintain the voucher. —*Thorpe*. You do not counterplead it by Statute or by common law, and you have admitted the possession of the ancestor of the vouchee, for trying which possession we can not between us make an issue; judgment, for to traverse the devise will not be an issue, &c. —*Blaykeston*. You may show the possession to be other than by such way, and maintain your voucher; and besides, one has often seen such a counterplea. —*Thorpe*. If three persons purchase jointly, and one release to the other two, and confirm the tenants with warranty, shall he not warrant? —*Blaykeston*. Plead that it is thus. —*HILLARY*. It seems to us that the voucher is good, notwithstanding what you have said; wherefore let the voucher stand. —*Quære* a contrary case previously in the 8th year.

Fine. (61.) § Note that, on a writ of Covenant brought by "Monsire" John de Neville and John his son in common in respect of a manor, against J., *Thorpe* said: J. grants the manor (except a third part which a woman holds of his inheritance, for the term of her life, which excepted part, &c., ought to revert to him) to remain to John and John the son and the heirs of the body of John the son begotten, remainder to the right heirs of John the father, and grants the third part of the same manor, which the same woman holds in dower, to remain to

No. 61.

unques altre possession avoient, &c.; jugement si de cele A.D. 1343.
 possession puisse le voucher meyntener.—*Thorpe*. Vous
 nel countrepledes pas par estatut ne par comune ley,
 et la possession launcestre le vouche avez conu, a quele
 possession trier nous ne poms pas entre nous faire
 issue; jugement, qar a traverser la devys ne serra pas
 issue, &c.—*Blaik*. Vous le poez moustrer estre ¹ altre
 qe par tiele voie, ² [et meyntener vostre voucher; et
 ovesqe ceo, tiel countreplee ad homme sovent vieu]. ³
Thorpe. Si trois purchacent joynt, ⁴ et un relest a
 les ⁵ deux, et conferme les tenantz ove garrantie, ne
 garrauntra ⁶ il pas?—*Blaik*. Pledez qil est ⁷ issi.—
HILL. Il nous semble le voucher bon, *non obstante* ceo
 qe vous avez dit; par quei estoise ⁸ le voucher.—
Quære ⁹ prius ¹⁰ anno viij. contrarium.

(61.) ¹¹ § *Nota* qe sur ¹³ bref de Covenant porte par *Finis.*¹²
 Mounsire Johan de Neville et Johan soun, ¹⁴ fitz en [*Fitz.*,
Fynes. 5.]
 comune dun maner vers J., *Thorpe* J. graunte le maner,
 forpris la terce partie, qune ¹⁵ femme tient de soun
 heritage, a terme de sa vie, et la quel forprise, &c., a luy
 duist revertir, &c., remeyndre ¹⁶ a Johan et Johan le fitz
 et les heirs du corps Johan le fitz engendres, et le
 remeyndre as dreitz ¹⁷ heirs Johan le pere, [et graunte la
 terce partie de mesme le maner, qe mesme la femme

¹ estre is omitted from T. and 25,184.

² Harl., vewe.

³ The words between brackets are omitted from Harl.

⁴ 25,184, yoynt.

⁵ les is omitted from 16,560 and Harl.

⁶ T., grauntera.

⁷ T., soit.

⁸ The report ends here in Harl.

⁹ The report ends here in 16,560.

¹⁰ prius is from 25,184 alone.

¹¹ From T., 16,560, 25,184, and Harl.

¹² The marginal note in T. is Covenant.

¹³ The words qe sur are omitted from 25,184.

¹⁴ The words de Neville et Johan soun are omitted from 25,184; in 16,560 Attienel is substituted for them, and in Harl. A et A.

¹⁵ 16,560 and Harl., quel sa, instead of qune.

¹⁶ 25,184, remeigne.

¹⁷ Harl., ditz.

No. 62.

A.D. 1342. John the father to hold to him and his heirs for ever, with warranty.—And in this form the fine was accepted.—*Quære*, further, because the son does not take an estate in the third part.

Writ of
Mesne
against
an Abbot.

(62.) § Mesne, against an Abbot.—*Derworthy*. What have you to show the liability to acquit?—*Pole*. We hold of you, and you and your predecessors have acquitted us and our ancestors from all time, and we have often tendered you our services, &c.—*Derworthy*. Prescription does not bind persons in religion if there be no record or specialty. And afterwards he said over that the plaintiff held of the Abbot by several services as to which the plaintiff did not count, and he did not fix any seisin in us of those services which would afford a liability to acquit of the whole quantity; judgment.—*Pole*. It is not through our default that you are not served; and we are distrained for your homage.—*Stouford*. We are at a traverse on the quantity of the services.—*SHARDELOWE*. The quantity will not make an issue on this writ, but your protestations against his count shall be entered.

No. 62.

tynt en dower, remeigne a Johan la pere]¹ a luy et a A.D. 1342. ses heirs a touz jours, ove garrantie.—*Et ita recipitur.*—*Quære post*, qar le fitz ne prent pas estat en² la terce partie.

(62.)³ § Mene vers Abbe.—*Derworthi*. Quei avez del acquittance?⁴—*Pole*. Nous tenoms de vous, et vous et voz predecessours avetz acquite nous et noz auncestres de tut temps, et sovent vous avoms tendu noz services, &c.—*Derworthi*. Prescripcion ne lie pas gent de religioun sil ne soit recorde ou especialte. Et puis dit outre qil tynt de luy par plusours services qil ne counta,⁷ et il nattacha pas seisine en nous de ces services quele durreit acquittance de la quantite; jugement.—*Pole*. Ceo nest pas nostre defaute qe vous nestes pas servy; et nous [sumes destreint pur vostre hommage.—*Stouf*. Nous]⁸ sumes a travers de la quantite des services.—*SCHAR*. La quantite ne ferra pas issue en ceo bref, mes voz protestacions countre soun counte serrount entres.⁹

¹ The words between brackets are omitted from 25,184.

² 16,560 and 25,184, de.

³ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., Ro. 227, d. It there appears that the action was brought by Roger de Stokelynohe against the Abbot of Ford, in respect of the acquittal of services for tenements held of the Abbot as Meane.

⁴ The words Bref de are omitted from 25,184.

⁵ The words vers Abbe are from 16,560 alone.

⁶ In the record "petit quod ostendat Curiam hic si quid habeat specialitatis per quod idem Abbas ad acquietandum

"ipsum in forma prædicta ligari debeat."

⁷ In the count or declaration the statement was "quod cum ipse teneat de prædicto Abbate . . . per fidelitatem et servitium septem denariorum et unius oboli per annum, pro quibus servitiis prædictus Abbas eum acquietare debet versus quoscunque, prædictus Hugo [le Despenser] exigit ab eo homagium, fidelitatem, et relevium, et ad hoc faciendum distringit eum."

⁸ The words between brackets are omitted from Harl.

⁹ The issue joined was, according to the record, on the following rejoinder of the Abbot:—"Et Abbas (protestando quod non

Nos. 63, 64.

A.D. 1342.

A man
was
arraigned
for excess
in his
office.

(63.) § Note that William Gauger was indicted before certain Justices for excess and trespass in his office. The inquisition was returned into the Chancery, and garnishment was sued on behalf of the King for the officer to show why he should not be removed, &c. And he came and showed by the King's charter that the office was his freehold by gift from the King for his life, and he showed how for a certain time, to wit, for three years, he was ousted, and the King appointed another to execute the office, and afterwards he sued for and had restitution, and he did not understand that he should be put to answer for the time when another occupied the office.—

PARNING. You suppose that during all that time it was your office, and that you were rightfully officer, so that whoever did wrong in the office it will be accounted your act, since you claim the office by a title.—*Pole* did not dare to abide judgment, but pleaded: Not Guilty.—They were adjourned into the King's Bench.—And the inquest was taken at *Nisi prius* in the absence of the party because he did not come; and it passed against the defendant.—*Thorpe* prayed judgment for the King, on the defendant's default, and also on the verdict.—SHARDELOWE. It is a strong measure to oust a man from his freehold for an excess found, &c.—PARNING. By law he can not have the office except during good behaviour.—And afterwards the Court adjudged that he should be ousted, and taken, &c.

Appeal of
Rape.

(64.) § A damsel sued an Appeal of Rape against a

“ cognoscit quod prædictus Rogerus
“ tenet de eo prædicta tenementa
“ cum pertinentiis per fidelitatem
“ et servitium septem denariorum
“ et unius oboli per annum tantum,
“ immo dicit quod idem Rogerus
“ tenet de eo prædicta tenementa
“ per fidelitatem et servitium
“ decem solidorum, &c.) dicit
“ quod ipse ad acquietandum præ-

“ dictum Rogerum ratione prædicta
“ ligari non debet quia dicit quod
“ prædictus, Henricus, quondam
“ Abbas, prædecessor, nec præde-
“ cessores sui non acquietarunt
“ prædictum Rogerum patrem
“ [Rogeri] nec feoffatores suos
“ nec illos qui tenementa prædicta
“ tenuerunt, &c., prout Rogerus
“ superius versus eos narravit.”

Nos. 63, 64.

(63.)¹ § *Nota* qe William Gauger³ fut⁴ endite devant certeyns Justices dexces et⁵ trespas en soun office. Lenqueste retourne en Chauncellerie, et garnisement fuit suy pur le Roi pur quei il ne serra remue,⁶ &c., qe⁷ vynt et moustra par chartre le Roi qe ceo fuit soun fraunc tenement par donn le Roi pur sa vie, et moustra coment certeyn temps, saver pur trois⁸ aunz, il fuit ouste,⁹ et le Roi assigna altre de faire loffice, et puis il suist et avoit restitution, et nentendi pas qe de temps qe lautre occupa loffice il serroit mys a respondre.—PARN. Vous supposez qe tut cele temps ceo fuit vostre office, et vous¹⁰ officier de dreit, issi qi qe mesprist en loffice ceo serra accompte vostre fait del houre qe vous le¹¹ clames par title.¹²—*Pole* nosa demurer, mes pleda de rien coupable.—*Adjornantur in Banco Regis.*¹³—*Et per nisi prius, in absentia partis, quia non venit*, lenquest fuit pris, qe passa countre le defendant.—*Thorpe* pria jugement pur le Roi par sa defaute et auxi sur verdit.—SCHARD. Il est fort douster homme de soun fraunc tenement pur¹⁴ un excès trove, &c.—PARN. De ley il ne puit aver loffice mes taunt qil se porte bien.—Et puis Court agarda qil fuit ouste, et pris, &c.¹⁵

A.D. 1342.
Homme
fuit arene
de excès
en son
office.²

(64.)¹⁶ § Une damoisele¹⁸ suyst Appel de Rape vers un

Appel de
Rape.¹⁷
[16 Li.
Ass., 13.]

¹ From T., 16,560, 25,184, and Harl.

² The marginal note is from T. alone. In 16,560 and Harl. it is Gauger only, in 25,184 Proses only.

³ Harl., Granger.

⁴ fut is omitted from T. and 25,184.

⁵ 25,184 en Essex de ceo qe, instead of dexces et.

⁶ T., reyne.

⁷ Harl., et.

⁸ 16,560 and Harl., ij.

⁹ In 25,184 the words de cel office, &c., are here inserted in a later hand.

¹⁰ In 25,184 the word feustes is here inserted in a later hand.

¹¹ Harl., lui.

¹² Harl., tiel.

¹³ 25,184, en Banc le Roi, instead of in *Banco Regis*.

¹⁴ 16,560, 25,184, and Harl., par.

¹⁵ In 25,184 is added the note: *Sic nota qil perdi fraunc tenement pur mesport en son office.*

¹⁶ From T., 16,560, 25,184, and Harl.

¹⁷ Harl., *Appellum Raptus*, instead of Appel de Rape. There is no marginal note in 16,560.

¹⁸ Harl., daunsele.

No. 65.

A.D. 1342. "valet"¹ in the King's Bench. He came and pleaded Not Guilty, and was released on mainprise to await the inquest and the judgment. And afterwards he did not come; wherefore a *Capias* was awarded against him to hear the inquest, and an *Alias Capias* and a *Pluries Capias*, which last was returned now; and he did not come.—SCOT. If we award more *Capiases* it is process infinite, and we cannot take the inquest by reason of his default in this case, because the judgment affects life and limb; and, if the Exigent issue, the inquest will be without day; and it is possible that while the Exigent is pending he will surrender and plead anew; and that would be a great delay.—*Thorpe*. This suit was only a trespass at common law, wherefore try to take the inquest on his default.—SCOT. We will not do that, but we award the Exigent; and if he surrender pending the Exigent we will endeavour to make the inquest come upon his plea pleaded.—And so it was done.

Attaint. (65.) § An Assise of Novel Disseisin was taken by default against several persons, and the disseisin was found to have been with force and arms. And it was not enquired who was tenant. And the truth was that one person was sole tenant. And afterwards they sued an Attaint in common, and assigned a false oath in the principal matter, on the ground that there was no disseisin, and also in respect of damages. And the other party, who recovered, maintained the oath to be good. And they had a day over. And afterwards some were nonsuited [on the Attaint]; and some were outlawed on the Assise for the disseisin with force and

¹ As to damsels (*puellæ*) and valets (*valetti*, or *valecti*)—a word which it is extremely difficult to translate—see Bract., 116 b., and Fleta, 24 and 28.

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valet¹ en Baunk le Roi. Il vynt et pleda de rien A.D. 1342. coupable, et fuit lesse par meynprise dattendre lenqueste [et le jugement. Et puis ne vynt pas ; par quei *Capias* fuit agarde vers luy doier lenqueste],² et *Sicut alias*, et *Sicut pluries* retorne ore ; et il ne vynt pas.—SCOT.³ Si nous agarderoms⁴ plusours *Capias* cest proces infinit, et nous ne poms prendre lenqueste pur sa defaute en ceo cas, qar le jugement⁵ est de vie et de⁶ membre ; et si lexicende isse, lenqueste serra sauuz jour ; et pendaunt lexicende il se rendra par cas et pledra de novel, qe¹⁷ serra graunt delaie.—*Thorpe*. Ceste suyte fuit forsque trespas a la⁸ comune ley, par quei assaiez⁹ de prendre lenqueste par sa defaute.—SCOT. Ceo ne¹⁰ froms pas, mes agardoms¹¹ lexicende ; et sil se¹² rende pendaunt lexicende nous assaieroms de faire lenqueste de venir sur soun plee plede.—*Et ita factum est*.

(65.)¹³ § Novele disseisine fuit pris par defaute vers atteinte.¹⁴ plusours, et la disseisine trove a force et armes. Et ne fuit [16 Li. pas enquis qi fuit tenant. Et la verite fuit qun fuit¹⁵ Ass. 14; soul tenant. Et puis ils suerent en comune latteynte, et Fitz. assignerent faux serement en le principal qe il ny avoit Severauns, pas disseisine, et auxi de damages. Et lautre qe 13.] recoveri meintient le serement bon. Et avoient jour oustre.¹⁶ Et puis les uns furent nounsuis, et les uns furent utlages en lassise pur la disseisine a force et

¹ 16,560, vadlet; Harl., vadelet.

² The words between brackets are omitted from Harl.

³ 16,560, *Stouf*.

⁴ Harl., *ajugeroms*.

⁵ T., lenqueste, instead of le jugement.

⁶ de is from 16,560 alone.

⁷ Harl., et.

⁸ 16,560 and Harl., par ; 25,184, de, instead of a la.

⁹ Harl., il suffit.

¹⁰ 16,560 and Harl., nous.

¹¹ 16,560 and Harl., nous agardoms.

¹² 16,560, soy ; 25,184, ne.

¹³ From T., 16,560, 25,184, and Harl.

¹⁴ The marginal note in T. *Assisa Nova Disseisina*.

¹⁵ The words qun fuit are omitted from 25,184.

¹⁶ oustre is from 25,184 alone

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A.D. 1342. arms. And two proffered themselves and prayed the jury.--*R. Thorpe*. Since the suit is taken in common, and some are outlawed and are not in a condition to be answered, it seems that the writ is abated; and also some are nonsuited, in which case it is a nonsuit for all.—[*W.*] *Thorpe*. It is not so; each one, as he feels himself aggrieved, shall have a separate suit, and shall separately assign the false oath; and if all were here and all had released except one, that one would still have suit for himself, because the suit is several.—SCOT. We adjudge a severance, and grant a *Nisi prius*.—The truth was that the person who lost the land was nonsuited, so that as to the others the suit was only as to personalty.—*Quære*, therefore, how would it be in an Attaint on Trespass?

Assise of
Novel
Disseisin
in the
King's
Bench.

(66.) § Novel Disseisin in respect of rent service. It was found by verdict that a woman was seised, and granted the rent to the plaintiff, that before attornment of the tenants the woman died, that afterwards the plaintiff demanded attornment from the tenants, that they delivered gages to him in the name of attornment, that, when he was thus seised, the person to whom the rent rightfully belonged released all his right to the plaintiff, and that the plaintiff was seised until he was ousted by the person who released to him and by the others.—SCOT, to the Assise: How then does it seem to

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armes. Et deux se profrent¹ et prient la jure.—A.D. 1342.
*R. Thorpe.*² Del houre qe la suyte est pris en comune,
 et les uns sount utlages et ne³ sount pas⁴ responables,
 il semble qe le bref est abatu; et auxi les uns sount
 nounsuy, en quel cas cest nounsuyte pur touz.
 —[*W.*] *Thorpe.* *Non est ita*; chesqun, solonc ceo qil
 se sent⁵ greve, avera several⁶ suite et severalment
 assignera le faux serement; et si touz fuissent ici et
 ussent⁷ relese sauf un, il avereit unquore suyte pur
 soi,⁸ qar la suyte est severale.—SCOT. Nous agardoma⁹
 la severance, et grauntoms¹⁰ *Nisi prius*.—Et la verite
 est qe celuy qe perdist la terre est nounsuy, issi qe
 quant as altres la suyte est en personalte.¹¹—*Quære*
*ergo*¹² *in Attinctu de Transgressione*.

(66.)¹³ § Novele disseisine de rente service. Trove *Assise*
 fuit par verdit qune femme fuit seisi, et graunta la *nova*
 rente al pleintif, et avant lattournement des tenantz la *disseisine*
 femme morust, [et puis le pleintif demanda attournement *coram*
 des tenantz],¹⁴ et ils livererent a luy gages en noun *Rege*.¹⁵
 dattournement, et, quant il fuit issi seisi, celuy a qi [16 Li.
 la rente de¹⁶ dreit fuit relese al pleyntif tut soun dreit, *Ass. 15;*
 et puis fuit il seisi tanqe par celuy qe lui¹⁷ relese *Fitz.,*
 et les altres ouste.—SCOT, al Assise: Quei vous semble, *Assise, 74.]*

¹ Harl., proferunt.

² T., *Red.*; 25,184, *Reden.*, instead of *R. Thorpe*.

³ 15,560, qe, instead of et ne.

⁴ pas is omitted from 16,560.

⁵ T., soit; 16,560, sount.

⁶ Harl., general.

⁷ T. and 25,184, avoient; Harl., eux ount.

⁸ All the MSS., except 16,560, sur ceste suyte, instead of pur soi.

⁹ Harl., ajugeoms.

¹⁰ 16,560 and 25,184, graunt.

¹¹ Harl., le personalte; the whole sentence is omitted from T.

¹² *ergo* is omitted from T. The word judgement is substituted in 25,184.

¹³ From T., 16,560, 25,184, and Harl.

¹⁴ The words *coram Rege* are from 16,560 alone. In 25,184 the marginal note is only *Nota*.

¹⁵ The words between brackets are omitted from 25,184.

¹⁶ Harl., en.

¹⁷ lui is from Harl. alone.

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A.D. 1342. you ?—THE ASSISE said that he was seised and disseised.

And they spoke moreover of damages, on enquiry by the Court.—SCOT. We have an express verdict that the plaintiff was seised and disseised.—*Notton*. The facts that they have related are their verdict; and although it seems to them that such facts are equivalent to a disseisin, you ought not to give judgment according to their opinions, but in accordance with what the facts require. Now it seems that, when the tenants, after the death of the grantor, delivered gages, although that delivery might have been in lieu of attornment if they had had a warrant for attorning, yet inasmuch as the grantor was dead and thus they had not a warrant for attorning, that delivery of gages did not give to the grantee the possession of the rent, nor consequently could the release to him be of any avail, but it is void; and, if this is not so, let him plead the release, &c.—SCOT. Can not one be tenant of rent by his disseisin ?—*Notton*. He can, when he levies my rent from my tenants by coercion and distress, and in that case an assise lies against him; but, if my tenants pay rent of their own accord, it is not the rent which I ought to have.—SCOT. The plaintiff has good faith on his side, and we have an express verdict for him; and you know well that the Assise in giving their verdict may alter and amend their statement; wherefore, although at the commencement they spoke of certain facts, they can afterwards take upon themselves to vary in that respect. But it is to be seen whether the person who has committed the

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donques?—**LASSISE**¹ dit² qil fuit seisi et disseisi. Et A.D. 1342. disoient outre des damages par opposail³ de Court.—**SCOT.** Nous avoms expresse verdit qe le pleintif fuit seisi et disseisi.⁴—**Nottone.** Le fait quel ils ount dit est lour verdit; et tut semble il a eux qe tiel⁵ fait soit disseisine, vous devez pas ajuger solonc lour ententes, mes solonc ceo qe tiel fait demande. Ore semble qe quant les tenantz, apres la mort le grauntour, liverent gages, tut⁶ fuit cele⁷ livere en lieu dattournement sil ussent eu garrant dattorner,⁸ qe par taunt⁹ qe la graunteresse fuit mort et issint navoient ils pas garrant dattourner, qe cele livere de gages ne dona pas al graunto possession de la rente, ne par consequent¹⁰ relees fait a luy purra valer, mes est¹¹ voide; et, si¹² nest ceo pas, plede le relees, &c.—**SCOT.** Ne poet homme pas estre tenant de rente par sa disseisine?—**Nottone.**¹³ Si poet,¹⁴ la ou il leve ma¹⁵ rente de mes tenantz par coercion et destresse, et la gist lassise vers luy; mes, si mes tenantz paient rente de gree, ceo nest pas la rente qe jeo duisse avoir.—**SCOT.** Le pleintif ad bone foy pur luy, et nous avoms expresse verdit pur luy; et vous¹⁶ savez bien qe lassise en disaunt lour verdit pount chaunger et amender lour dit; par quei, tut parlerent ils dun fait a comencement, ils purrount¹⁷ enprendre sur eux de varier de cele apres.¹⁸ Mes fait a¹⁹ veer²⁰ si celui

¹ Lassise is omitted from 16,560 and Harl.

² dit is from 25,184 alone.

³ Harl., esposail.

⁴ The words et disseisi are omitted from 25,184.

⁵ Harl., cel.

⁶ T., et tut.

⁷ cele is from T. alone.

⁸ dattorner is omitted from all the MSS. except T. In Harl. the words qe la tenant are substituted.

⁹ The words qe par taunt are omitted from Harl.

¹⁰ 25,184, *nec per consequens*, instead of ne par consequent.

¹¹ The words purra valer, mes est are omitted from 16,560 and Harl.

¹² 16,560, cy; Harl., issu.

¹³ Harl., Nortone.

¹⁴ 25,184, poet il.

¹⁵ T., la.

¹⁶ T., si vous.

¹⁷ 25,184, purreint.

¹⁸ Harl., a prise.

¹⁹ a is omitted from 16,560 and Harl.

²⁰ 16,560, veier; Harl., assoer.

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A.D. 1342. disseisin contrary to his own release shall be adjudged to prison, in the same manner as if it had been his feoffment.—*Notton*. No, Sir; *profert* is not made of any release.—SCOT afterwards adjudged that, inasmuch as it was found by verdict that the plaintiff was seised and disseised, he should recover seisin, &c., and his damages.

Præcipe quod reddat.
Writ abated by reason of a recovery on a writ purchased while this writ was pending.

(67.) § One William brought a *Præcipe quod reddat* in respect of the office of bailiff of the Bedelary of the Hundred of Bempston.—The tenant pleaded to the inquest, pending which inquest the Dean of Bath, as appears above in this term,¹ brought a writ of Entry on a disseisin effected on his predecessor. And a verdict passed for the Dean on the principal matter, and also on the right; wherefore the Dean recovered. And now the tenant came, and alleged the judgment given against him on an action tried since the last continuance, and demanded judgment of the writ.—*Thorpe*. It is possible that execution has not yet been had, and if my title be elder, and by malice and covin, pending my suit, he has lost,—for that may be on a disseisin which was effected while my writ was pending,—there is no reason why my writ should abate, and especially as this is no mischief to him; for if another be tenant he will lose nothing; wherefore we pray a continuance on the issue joined to the

¹ No. 4, above. The demandant in the writ of Entry was, according to the record, the Dean of Wells.

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qe ad fait disseisine countre soun relees demene¹ serra A.D. 1342.
 agarde a la prisone, si avant come ceo fuit soun
 feffement.—*Nottone*. Nanyl, Sire,² nul relees est mys
 avant.—*Scot* agarda⁴ puis, qe⁵ pur ceo qe par verdit *Judicium*.⁵
 fuit trove qe le pleintif fuit seisi et disseisi, qil
 recoverast seisine,⁶ &c., et ses damages.

(67.)⁷ § Un William porta⁹ *Præcipe quod reddat* *Præcipe*
ballivam bedelricæ de Hundredo de ^{quod}
^{reddat.}
^{Bref abatu}
^{par}
^{recoverer}
^{sour un}
^{bref}
^{purchase}
^{pendant}
^{cest bref.}
 Bempstone.—Le
 tenant pleda a lenqueste, pendaunt quele enqueste le
 Dean de Baaz,¹¹ *ut patet supra isto termino*, porta¹² bref
 dentre sur disseisine fait a soun predecessour. Et
 verdit passa pur le Dean¹³ [sur le principal, et auxi sur
 le dreit; par quei il¹⁴]¹⁵ recoveri. Et ore vynt le tenant,
 et alleggea le jugement taille vers luy sur accion trie
 puis¹⁶ la darreyn continuance, et demanda jugement du
 bref.—*Thorpe*. Il est possible qe¹⁷ execucion nest fait
 unqore,¹⁸ et si moun tite soit eigne, et par malement¹⁹
 et covyne, pendaunt ma suyte, il ad perdu, qar ceo poet
 estre sur un disseisine quele fuit fait pendaunt moun
 bref, il nest pas resoun qe moun bref abate, et nomement
 quant ceo nest pas meschief pur luy; [qar si altre soit
 tenant il perdra rien; par quei nous prioms continuance

¹ Harl., demeigne.² Harl., la ou.³ The marginal note is from Harl. alone.⁴ Harl., ajugea.⁵ 25,184, et.⁶ seisine is from Harl. alone.⁷ From T., 16,560, 25,184, and Harl.⁸ The words of the marginal note after *reddat* are from 16,560 alone.⁹ T. and 25,184, *Nota* qun, instead of Un William porta.¹⁰ The words *Hundredo de* are omitted from T. and Harl.¹¹ Harl., Bath.¹² 16,560 and Harl., demanda mesme la baille par, instead of *ut patet supra isto termino*, porta.¹³ T., Labbe; 16,560 and Harl. luy.¹⁴ T., Labbe.¹⁵ The words between brackets are omitted from 25,184.¹⁶ 16,560, sour puis.¹⁷ 16,560 and Harl., Par cas, instead of Il est possible qe.¹⁸ T. and 25,184, ne soit pas fait, instead of nest fait unqore.¹⁹ T. and 16,560, makement; Harl., malice.

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A.D. 1842. Jury.—*Pole*. There is mischief, for otherwise we shall be amerced without cause; and we tell you that execution is had, and covin can not be understood when the thing is lost on action tried; and if consent be given thereon, as you suppose, you can plead it, and upon the execution you can have a good issue.—*Thorpe* said as above.—SHARDELOWE abated the writ.—Look to the plea above.

*Quare
impedit.*

(68.) § The King brought a *Quire impedit* against the Abbot of Rufford in respect of the vicarage of the church of Rotherham, and counted that one Gerard, Abbot of Clervaux, was seised, and presented, and afterwards made one Thomas, Abbot of Rufford, predecessor of this Abbot of Rufford, his general attorney to present to all the churches of his patronage in England. Thomas presented one William del Skyres and afterwards one A. by force of the aforesaid commission; and

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sur la Jure.¹—*Pole*. Il y ad² meschief],³ qar autrement A.D. 1342. nous serroms amercie saunz cause; et vous dioms qe execucion est fait, et ne poet estre entendu covyne quant la chose est perdu sur accion trie; et si consent⁴ y⁵ soit fait,⁶ come vous poses, vous le poez pleder, et⁷ sur l'execucion aerez bon issue.—*Thorpe*. *Ut supra*.⁸—SCHARD.⁹ abati le bref.—*Quære ad placitum supra*.¹⁰

(68.)¹¹ § Le Roi porta *Quære impedit* vers Labbe de Rufford¹² de la¹³ vicarie de leglise de Roderham,¹⁴ et counta qun Gerard,¹⁵ Labbe de Clarvaux, fuit seisi et [presenta,¹⁶ et puis fist un Thomas,¹⁷ Abbe de Rufford,¹⁸ le predeceussour cesty Abbe de Rufford,¹⁹ soun attourne general de presenter toutes les eglises de savowerie]²⁰ en Engleterre, qe presenta un William del Skyres²¹ et puis un A.²¹ par force de la commission avant dite; et le

Quære impedit.
[Fitz.,
Graunt,
56.]

¹ The words sur la Jure are omitted from Harl.

² Harl., nad, instead of y ad.

³ The words between brackets are omitted from 25,184.

⁴ 16,560, conscience; 25,184, consente; Harl., concience.

⁵ 25,184, et; the word is omitted from T.

⁶ fait is from T. alone.

⁷ Harl., a.

⁸ 16,560 and Harl., vostre recoverir, si vous eiez dreit, est sauf, instead of sur l'execucion aerez bon issue.—*Thorpe*. *Ut supra*.

⁹ The report ends with this word in Harl.

¹⁰ The last sentence is from 25,184 alone.

¹¹ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R. 342. It there appears that the action was brought by the King against the Abbot of

Rufford, in respect of a presentation to the vicarage of a moiety of the church of Rotherham (Yorkshire).

¹² 16,560, 25,184, and Harl., Rughford.

¹³ T., dune, instead of de la.

¹⁴ The words de leglise de Roderham are omitted from T. and 25,184.

¹⁵ T. and 25,184, G; 16,560 and Harl., qe, instead of qun Gerard.

¹⁶ Presentavit Alexandrum de Tatersale, according to the record.

¹⁷ MSS. of Y.B., T.

¹⁸ The words Abbe de Rufford are omitted from T. and 25,184.

¹⁹ The words between brackets are omitted from 25,184.

²⁰ MSS. of Y.B., J., instead of William del Skyres.

²¹ According to the record, Abbot Thomas presented only William del Skyres, and his successor Robert, being appointed general

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A.D. 1342. the successor of the Abbot of Clervaux afterwards executed a commission in the same manner to the successor of the Abbot of Rufford, to present as above, and he presented one R., after whose death the church is now vacant. And because the Abbot of Clervaux is of the power of the French, the King seized the lands, fees, and advowsons, at the time at which the church was vacant, and thus it belongs, &c.—*Pole*. He has counted of several presentations, and also he has not shown whether the presentations were made as by person of Holy Church or as by lay patron, &c.—This exception was not allowed.—*R. Thorpe*. We tell you that Gerard, Abbot of Clervaux, was parson imparsonnee of a moiety of the same church, and held it to his own use, and as parson presented as above; and we tell you that B. successor of this Abbot gave the same moiety to our predecessor by this deed, with all the right which he had in the patronage of the same church (and this before the Statute *De Religiosis*,¹ and this was afterwards confirmed by a Papal Bull, which is here) rendering to him and his successors 20*l.* by the year, of which the King is seised in the Exchequer by reason of his seizure as above; thus the presentations by our predecessors were

procurator and attorney by the
Abbot of Clervaux, presented
Eustace de Stouford. Robert's
successor having a similar com-

mission, presented Laurence de
Athewyke, after whose death the
church was now void.

¹ 7 Edw. I.

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successour Labbe de Clarvaux puis fist commissioun par A.D. 1342. mesme la manere al successour Labbe de Rufford, a presenter *ut supra*, et il presenta un R.¹ apres qi mort leglise est ore² voide. Et pur ceo qe Labbe de Clarvaux est del poair³ de ceux de⁴ France, le Roi seisisit les terres, fees, et avowesons, a quel temps leglise fuit voide; et iassi appent, &c.—*Pole*. Il ad counte de plusours presentements, et auxi il nad pas moustre le quel les presentements furent faitz come par persone de Seint Eglise ou come par ley patron, &c.—*Non allocatur*.—*R. Thorpe*. Nous vous dioms qe Gerard,⁵ Abbe de Clarvaux, fuit persone enpersone de la moite de mesme leglise, et la tient⁶ en propre oeps,⁷ et come persone presenta *ut supra*; et vous dioms qe [B. successour]⁸ cely Abbe dona mesme la moite a nostre predecessour par ceo fait, ove⁹ tut le dreit qil avoit en lavowerie de mesme leglise, et ceo devant¹⁰ statut *De Religiosis*,¹¹ et ceo apres fut¹² conferme par bulle le Pape,¹³ qe cy est, rendaut a luy et ses successours vint livers¹⁴ par an, des¹⁵ queux le Roi est¹⁶ seisi en Leschequer¹⁷ par cause de soun seisir *ut supra*¹⁸; iassint le presentement de noz

¹ The words un R. are omitted from T. and 25,184.

² ore is from 16,560 alone.

³ 16,560, power; Harl., pouer.

⁴ The words ceux de are omitted from T. and 25,184.

⁵ T., 16,560, and Harl., G.; 25,184, R.

⁶ The words et la tient are omitted from T. and 25,184.

⁷ Harl., eus.

⁸ The words between brackets are supplied from the record.

⁹ 16,560, od.

¹⁰ Harl., avant.

¹¹ Harl., religious.

¹² The words ceo apres fut are omitted from T. and 25,184.

¹³ This Papal Bull is not mentioned, in this place, in the record.

¹⁴ The words, as extended, are from Harl. alone; the other M: S xxli.

¹⁵ 16,560 and Harl., les.

¹⁶ 16,560 and Harl., ad.

¹⁷ The words en Leschequer are omitted from 16,560 and Harl.

¹⁸ For the words cause de soun seisir *ut supra* are substituted in 16,560 the words resoun de la guerre et ent est respondu en Leschequer; in Harl., the words are resoun de la guerre et eust en le Chequer.

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A.D. 1342. made in their own right, and not in any other way as the King supposes;—and he alleged a later presentation, on the death of which presentee, &c.;—so it belongs to us to present.—*W. Thorpe*. They have admitted the presentation by Gerard, Abbot of Clervaux, and that he was parson imparsonnee of his own advowson of a moiety of the church to his own use; in which case, when he gave that moiety together with the advowson, rendering to himself a certain rent, that can only be understood in respect of the advowson of which he was parson, of which he was seised to his own use. And in the deed no mention is made of the advowson of which he was parson, of which he was seised to his own use, and in the deed no mention is made of the advowson of the vicarage, so that the presentations which the predecessors of this Abbot of Rufford made can only be understood as made in right of him who was Abbot of Clervaux; and since the advowson of the vicarage remained to the Abbot of Clervaux and he has not denied that he was deputed by that Abbot and had a commission to present in the name

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predecessours en lour dreit demene furent faitz, et noun pas par altre manere come le Roi suppose;—et alleggea un presentement pluis tard,¹ par qi mort, &c.;—issint appent a nous a presenter.²—*W. Thorpe*. Ils ount conu le presentement [Gerard]³ Labbe de C., et qil fuit persone enpersone⁴ de savowerie demene de la moite de leglise⁵ en propre oeps, ou quant il dona cele⁶ moite ensemblement ove⁷ lavoweson, rendaunt a luy certeyn rente,⁸ ceo ne poet estre entendu mes del avowerie dount il fuit persone, de quei il fuit seisi en propre oeps. Et el fait nul mencion del avowerie [dount il fuit persone, de quei il fuit seisi en propres oeps, et en le fait nul mencion de lavowerie]⁹ de la vicarie est fait, issi qe les presentements qe les predecessours cesty Abbe de Rufford¹⁰ firent¹¹ ne pount estre entendu forsqe en le dreit celuy qe fuit Abbe de Clarvaux; et del houre qe lavowerie de la vicarie luy demura, et il nad pas dedit qil ne fuit depute¹² par luy et commission avoit de presenter en

A.D. 1342.

¹ The allegation was, according to the record, that after Laurence's death, Elias, the existing Abbot of Rufford, presented his clerk William Levet (below called Lynche), but that in virtue of a Papal Bull, provision of the vicarage was made to William le Lyttester of Rotherham, who entered, as in right of the existing Abbot of Rufford, and removed William Levet.

² The plea, which begins in the usual form in the record, "*defendit vim et injuriam*," and which contains a statement of the Abbot's case, concludes in a form suggesting the later demurrer to a declaration:—"Et ea ratione pertinet ad ipsum Abbatem ut in jure suo proprio, et ecclesie sue predic-
ta, et non ad dominum Regem

"nunc, ad predictam vicariam presentare, unde *petit judicium si idem dominus Rex ad predictam demonstrationem responderi velit*, seu jus vel titulum presentandi in hoc casu habere possit, &c."

³ Gerard is supplied from the Roll.

⁴ enpersone is omitted from 25,184.

⁵ The words de leglise are from T. alone.

⁶ 25,184, la.

⁷ 16,560, od.

⁸ rente is from T. alone.

⁹ The words between brackets are from 25,184 alone.

¹⁰ 16,560, 25,184, and Harl., Rughford.

¹¹ T., fist.

¹² Harl., depite.

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A.D. 1342. of that Abbot, therefore we demand judgment. —

STONORE. Is not the advowson of the church all one with that of the parsonage and of the vicarage? Certainly it is; and you do not show that it ought to be different from that which is commonly understood; and therefore it seems that everything passed.

No. 68.

soun noun, par quei nous demandons jugement.¹— A.D. 1342.
 STON. Nest lavowerie del eglise tut une et del
 personage et de la vicarie? Certes si est; et vous ne
 monstres pas qe ceo duist estre altre qe comune entente
 doune; par quei semble qe tut passa.

¹ This pleading for the King was, according to the roll :—"Quod ex quo prædictus Abbas de Rufford cognovit quod prædictus Gerardus, quondam Abbas de Claris Vallibus, præsentavit ad eandem vicariam prædictum Alexandrum, clericum suum, &c., ut in jure suo, ut prædictum est, et pro responso ad actionem domini Regis nihil allegat nisi, pro jure suo advocacionis prædictæ affirmando, quoddam scriptum indentatum, in quo non continetur aliquod verbum per quod advocatio vicariæ prædictæ transire poterit a persona ipsius Abbatis de Claris Vallibus in personam ipsius Abbatis de Rufford, nec quod prædictus Abbas de Claris Vallibus de advocacione vicariæ prædictæ aliquantulum se dimisit, eo quod nulla mentio advocacionis vicariæ prædictæ in dicto scripto habeatur, nec deditum est per eundem Abbatem de Rufford quin prædicti Abbates de Rufford generales procuratores ipsorum Abbatum de Claris Vallibus et attornati extiterunt, et præsentarunt ad eandem vicariam ut generales procuratores et attornati ipsorum Abbatum de Claris Vallibus, ut prædictum est, petit judicium pro domino Rege, et breve Episcopo."

In the record there is also a further pleading for the Abbot of Rufford which is not represented in

the report :—"Quod ex quo prædictus Gerardus quondam Abbas de Claris Vallibus, ut persona medietatis ecclesiæ de Roderham, præsentavit prædictum Alexandrum ad vicariam medietatis ecclesiæ prædictæ, et idem Abbas de Rufford habet eundem statum virtute scripti prædicti, et præsentationes prædictæ factæ fuerunt per se et prædecessores suos prædictos, in jure ipsius Abbatis et ecclesiæ suæ Beatæ Mariæ prædictæ, et non ut procuratores prædicti Abbatis de Claris Vallibus, petit judicium si dominus Rex ad breve istud velit responderi, et petit breve Episcopo, &c."

The record affords some illustration of the methods used for ascertaining the facts which were in dispute, where the pleadings subsequent to the declaration were more or less of the nature of demurrers, and neither party had pleaded to issue on the facts.

After several adjournments it appears that the King (but it is not shown on whose motion) has commanded the Archbishop of York to send a certificate into the Chancery, and this certificate is sent with the King's writ close to the Justices of the Common Bench so that they may be able "securius procedere." It contains extracts from the Registers of the Archbishop and Dean and Chapter of York (re-

Nos. 69, 70.

A.D. 1842.
Fine.

(69.) § *Thorpe*. A. acknowledges the tenements comprised in the writ to be the right of J. as those which J. has of his gift, all but one messuage, and he grants that the same messuage (which one W. holds for term of W.'s life of his inheritance, and which after W.'s death is to remain to R., if R. survives W., for the term of R.'s life, and which after the death of both W. and R. is to revert to A. and his heirs) shall remain to J.; and for this acknowledgment J. grants the same tenements, except the messuage, to A. and the heirs of A.'s body begotten, with remainder over.

Voucher
on writ of
Dower.

(70.) § Note that the heir of the husband was vouched on a writ of Dower, and made default after default; and the tenant said that he had assets by

lating to the presentations and admissions of successive incumbents, beginning with a presentation of the patrons William de Vesey and Geoffrey de Sacusemar to the church of Rotherham, and ending with that by Elias (the existing Abbot of Rufford) of William Lynche (above called Levet), chaplain, to the vicarage of a moiety of the church, as well as extracts from the Roll of Visitations of the Archdeaconry of York, A.D. 1820-1835, and from a Roll of Taxation of the same period.

After further adjournments it appears that the King has commanded the Treasurer and Barons of the Exchequer to send another certificate relating to the subject into the Chancery, and this is enclosed in the King's letter close to the Justices of the Common Bench. It shows the amount of the tithes of the Abbot of Clervaux in respect of the church of Rotherham and in respect of a moiety of the church,

and the 20*l.* fee-farm rent from the Abbot of Rotherham belonging to the Abbot of Clervaux, all seized into the King's hand by reason of the war with the French.

There were several other adjournments but the result is not shown. There was, however, in the same term another action, in respect of the same vicarage, brought by the King against William le Littestere of Rotherham. The declaration is to the same effect as that against the Abbot of Rufford. Littestere said, "quod ipse in forma pauperum in Curia Romana sequebatur versus Papam Benedictum pro aliquo beneficio ecclesiastico quod esset de advocacione Abbatis de Rufford, per quod dominus Papa Benedictus provisit ei proximum beneficium vacaturum, de certa taxa, quod esset de advocacione predicti Abbatis, ita quod vicaria predicta per mortem predicti Laurentii fuit vacans, et idem

Nos. 69, 70.

(69.)¹ § *Thorpe*. A. conust les tenementz contenuz el bref estre le droit J. come ces qil² ad de³ soun doun, tut estre⁴ un mese,⁵ et graunte qe mesme le mese⁶ quel un⁷ W. tient a terme de sa vie de soun heritage et qe apres [soun decees a R. sil survive W., deit remeyndre⁸ pur terme de sa vie, et⁹ le quel]¹⁰ apres le deces¹¹ lun et lautre a luy et ses heirs deveroit revertir, remeigne a J.; et pur cele conisance¹² J. graunt mesmes les tenementz forpris le mese¹³ a A. et les heirs de soun corps engendrez, et outre le remeyndre.

(70.)¹⁴ § *Nota* qe leir le baroun fuit vouche en bref de dower,¹⁵ et fist defaute apres defaute¹⁷; et le tenant dit qil avoit assez par descende, et la demandante

A.D. 1342.
Finis.

Voucher
en bref de
Dower.¹⁸
[Fitz.,
Dower,
88.]

"Willelmus sequebatur versus
"executores bullæ suæ pro bene-
"ficio prædicto, ita quod ipse per
"executores bullæ suæ prædictæ
"positus fuit in possessionem
"vicariæ prædictæ, ut vicarius
"ecclesiæ prædictæ, et sic dicit
"quod ipse tenet vicariam illam
"in jure prædicti Abbatis, nihil
"clamando in advocacione vicariæ
"prædictæ nisi solummodo per
"provisionem et bullam prædictas.
"Et dicit quod ipse non intendit
"quod dominus Rex vult ad istud
"breve responderi, &c. Super
"quo prædictus Johannes de Clone
"qui sequitur pro domino Rege
"petit judicium pro domino Rege
"ex quo nihil clamat in advoca-
"tione vicariæ prædictæ, &c. Ideo
"consideratum est quod dominus
"Rex recuperet præsentationem
"suam ad vicariam prædictam, et
"habeat breve," &c. (*Placita de
Banco*, Trinity, 16 Edw. III.
B^o. 480.)

¹ From T., 16,560, 25,184, and Harl.

² 16,560, dont il, instead of come ces qil.

³ 25,184, tut de.

⁴ T., forpris, instead of tut estre.

⁵ T., mies.

⁶ T., cel mies, instead of mesme le mese.

⁷ 16,560, qune, instead of quel un.

⁸ The words a J. are here inserted in T.

⁹ et is omitted from T.

¹⁰ The words between brackets are omitted from Harl.

¹¹ T., decees.

¹² 16,560, 25,184, and Harl., re-conisance.

¹³ T., mies; Harl., meis.

¹⁴ From T., 16,560, 25,184, and Harl.

¹⁵ The marginal note is from Harl. alone. In T. and 16,560 the note is *Nota*; in 25,184, Dower only.

¹⁶ 16,560, dowerie.

¹⁷ The words apres defaute are omitted from 16,560 and Harl.

No. 71.

A.D. 1342. descent, and the demandant admitted it; wherefore SHARDELOWE adjudged that she should sue execution against the heir, and that he should be in mercy.

*Quare
impedit.*

(71.) § The King brought a *Quare impedit* against Richard de la Bere, and counted that King Edward his grandfather was seised of the advowson as of fee and of right, and presented, &c., after the death of whose presentee, &c.; and he made the descent to himself.—*Derworthy*. We tell you that one Robert Walrand was seised of the advowson and presented; from Robert it descended to John as son, which John was an idiot, and on account of his idiocy King Edward the grandfather seized all his lands, &c., and this advowson, and presented, as in right of John, those of whom you speak; and after the death of John, Aleyn Plukenet sued the lands out of the King's hand, and by office he was found to be the next heir, and the King delivered to him the lands, &c. (And *Derworthy* traced the resort.) And then it descended from Aleyn down to Richard, and thus he is seised, and it belongs to him to present.—*W. Thorpe*. They have admitted the King's possession, and do not show how by office found this advowson came into the King's hand, or that by office found it was sued out of the King's hand; and we tell you further, in order to enforce the King's title, and to

No. 71.

le conust; par quei SCHARD. agarda qe ele suist A.D. 1342. execucion¹ vers leir, et il en la mercy.

(71.)² § Le Roi porta *Quare impedit* vers Richard de la³ Bere, et counta qe le Roi Edward souu aiel fuit seisi del avoweson come de fee et de dreit, et presenta,⁴ &c., apres qi mort, &c.; et fist la descente tanqe a luy.—*Derworthi*. Nous vous dioms qun Robert⁵ Walrand⁶ fuit seisi del avoweson et presenta; de Robert⁵ descendi a Johan come a fitz,⁷ le quel⁸ Johan fuit sote,⁹ et par sa sotie le Roi Edward lai el seisisit totes ses terres, &c., et ceste avoweson, et presenta, come el dreit Johan, ces¹⁰ dount vous parlez; et apres la mort Johan, Aleyn Plukenet¹¹ suist les terres [hors de la mayn le Roi, et par office fuit trove puis procheyn heir, et le Roi luy livra les terres],¹² &c. (Et fist resort.) Et puis descendi de Aleyn tanqe a Richard, issi est il seisi, et a luy appent a presenter.—*W. Thorpe*. La possession le Roi ount il conu, et ne moustrent pas coment par office [trove ceste avoweson devynt en la mayn le Roi],¹² [ne qe par office trove]¹³ [qe ceste fuit¹⁴ suy¹⁵ hors de la mayn le Roi]¹⁶; et vous dioms unquore, pur afforcer le tittle le Roi, et a

*Quare
impedit.
[Fitz.,
Livre,
80.]*

¹ execucion is omitted from 16,560 and Harl.

² From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 163. It there appears that the action was brought by the King against Richard de la Bere, in respect of a presentation to the church of Studland (Dorset).

³ The words de la are omitted from T., 16,560, and Harl.

⁴ The words et presenta are omitted from 16,560 and Harl.

⁵ All the MSS. of Y.B., W.

⁶ 16,560, Warrant; 25,184, Warland; Harl., Barrant.

⁷ The descent, according to the

record, was from Robert to his brother William, as heir, and from William to John as son and heir.

⁸ T. and 25,184, et dit qe, instead of le quel.

⁹ *salvus naturalis*, according to the record.

¹⁰ Harl., ces heirs.

¹¹ T., 16,560, and Harl., Plunket; 25,184, Plunkenet.

¹² The words between brackets are omitted from Harl.

¹³ The words between brackets are omitted from 25,184 and Harl.

¹⁴ 16,560 and Harl., quel fut, instead of qe ceste fuit.

¹⁵ Harl., seisi.

¹⁶ The words between brackets are omitted from 25,184.

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A.D. 1342. prove that the presentations were in his own right, that before the time whereof we have counted the King presented another; judgment.—*Pole*. You can not plead both in fact and in law.—*SHARSHULLE*. Yes he can, in this case; one is in pursuance of the other, and any ordinary person among the people would have the plea; for all goes to affirm the presentations as having been in the King's own right.—*Derworthy* made *profert* of the Office which served for Aleyn, *sub pede sigilli*, which purported as above.—*Thorpe* said as above.—*SHARSHULLE*. Was it not sufficient when the lands generally were seized to deliver them generally? And as to the presentation whereof you speak as having been made higher up, that might have been during his idiocy.—*Thorpe*. In case of idiocy the King causes enquiry to be made specially of what lands, &c.—*SHARSHULLE*. He does not; for when the King understands that there is an idiot, the King causes him to be sent for to be examined before the King's Chancellor or some other person, and if he be found a lunatic, still the King does not seize, but takes an inquest as to whether he has been an idiot and a lunatic from his birth or with lucid intervals; and if it be found that he has been a lunatic from his birth, the King commands all his lands to be seized, and in virtue of that command all will be seized, and after his death will be delivered generally.—*Thorpe*. We will see whether it be so.—They were adjourned.—Afterwards, in Michaelmas term in the 17th year, because no other right was affirmed in the King but the seizure on account of idiocy, which seizure was general, and in

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prover qe les presentements furent en soun dreit A.D. 1342. demene, qe devant le temps qe nous avoms counte le Roi presenta un altre; jugement.—*Pole*. Vous ne poez ambedeux pleder en fait et en ley.—*SCHAR*. Si poet en ceo cas; lun est pursuyaunt del altre, et¹ comune² persone del poeple lavereit; qar tut est daffermer les presentements en soun dreit demene.—*Derworthi* mist avant loffice qe³ servy a⁴ Aleyn Plukenet,⁵ *sub pede sigilli*, qe voleit *ut supra*.—*Thorpe*. *Ut supra*.—*SCHAR*. Ne suffit il pas quant⁶ [generalment les terres furent seisis]⁷ generalment de liverer? Et al presentement qe vous parles pluis⁸ haut⁹ ceo purreit estre duraunt sa sotie.—*Thorpe*. En cas de sotie le Roi fait especialment enquire¹⁰ de quels terres, &c.—*SCHAR*. Noun fait; qar quant le Roi entent qil y ad un sot,¹¹ il¹² fait¹³ maunder pur luy destre¹⁴ examine¹⁵ devant¹⁶ soun Chaunceler ou altre, et sil soit trove fol, unquore il ne seisi pas, mes prent enqueste sil eit este¹⁷ sot et fole *a nativitate vel per lucida intervalla*; et sil soit¹⁸ trove de sa¹⁹ nativite fole, il maunde de seisir totes ses terres, et par ceo tut serra seisi, et apres sa mort generalment delivere. — *Thorpe*. Nous verroms sil soit issi.—*Adjornantur*.—*Postea Termino Michaelis anno xviij.*, pur ceo qe altre dreit ne fuit afferme en le Roi mes le seisir par resone de sotie, quel seisir fuit general et en

¹ Harl., en.² T., come.³ Harl., et.⁴ a is omitted from 25,184 and Harl.⁵ 16,560 and Harl., Plunket; 25,184, Plunkenet. The word is omitted from T.⁶ 25,184, qar.⁷ The words between brackets are omitted from Harl.⁸ 16,560 and 25,184, de pluis.⁹ haut is omitted from 16,560

and Harl.

¹⁰ Harl., enquerer.¹¹ 25,184, sotie.¹² 25,184, sil.¹³ T., face; 25,184, fet.¹⁴ destre is omitted from 16,560 and Harl.¹⁵ Harl., examiner.¹⁶ devant is omitted from Harl.¹⁷ este is omitted from Harl.¹⁸ soit is omitted from Harl.¹⁹ T., qe de, instead of de sa.

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A.D. 1342. right of another, in which case the heir need only sue the inheritance, &c., in general terms, out of the King's hand, HILLARY awarded, for Richard, a writ to the Bishop.

Trespass. (72.) § Alice de Denecombe brought a writ of Trespass, in respect of her goods carried away, against Nicholas le Forester, and counted of a trespass committed on the Monday next before the Feast of Christmas in the thirteenth year of our Lord the King that now is.—*Grene*. Nicholas denies, &c., and tells you that Alice who is plaintiff, on the Wednesday next before the day on which she has supposed the trespass to have been committed, allowed herself to be married to one Thomas de Middleton at the church of Shenley in the county of Hertford, and so remained his wife until the Quinzaine of Easter in the fifteenth year, when a divorce between them was effected. This Thomas, during the time when she was thus covert of him, by this deed which is here, released and quitclaimed to the said Nicholas all kinds of actions which he could have against Nicholas, as well of trespass committed against his wife as of trespass committed against himself; judgment whether she can have an action.—*Pulteney*. Alice tells you that at the time at which the trespass

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altri dreit, en quel cas ne bosoigne pas pur leir mes A.D. 1342.
 generalment suir hors de la mayn le Roi leritage, &c.,
 HILLARY agarda, pur Richard, bref a Levesqe.¹

(72.)² Alice de Denecombe³ porta bref de Trespas, de Trespas.
 ses biens emportes, vers Nicholas le Forester, et counta
 de trespas fait le Lundi prochein devant le Feste de
 Noel en lan xiiij⁴ nostre Seignur le Roy qore est.—
Grene. Nicholas defend, &c., et vous dit qe Alice qe se
 pleint, le Merkerdy⁵ proschein devant le jour quele ad
 suppose le trespas estre fait, se lessa exposer a un
 Thomas de Middleton a leglise de Shenly en le counte
 de Hertford, et issint demora sa femme tanqe a la
 quinsene [de Pasche en lan xv]⁶ qe la devorse⁷ se fit
 entre eux, le quel Thomas, tancome⁸ ele fut issint
 covert de lui, par ceo fait qe ci est, relessa et quite-
 clama al dit Nicholas toutes maneres daccions quex il
 purroit aver devers lui, si bien de trespas fait a sa
 femme come a lui mesmes; jugement⁹ si ele put accion
 avoir.¹⁰—*Pultney.* Alice vous dit qe al temps qe le

¹ The concluding sentence, beginning *Postea*, is from T. alone, but it is in accordance with the record.

² From 16,560 and Harl. (until otherwise stated), but corrected by the record, *Placita coram Rege*, Trinity, 16 Edw. III. R^o. 100, d. It there appears that the action was brought by Alice de Denecombe against Nicholas le Forester of Stebenhethe (Stepney). According to the count or declaration in the record the defendant "die
 " Luna proximo ante festum
 " Natalis Domini anno regni Regis
 " nunc . . . bona et catalla
 " ipsius Alicie, videlicet firmacula
 " aurea et argentea, annulos
 " aureos et argenteos, pannos

" lineos et laneos . . . apud
 " suburbium Londoniarum, vide-
 " licet in Warda de Cripelgate in
 " parochia Sancti Egidii extra
 " Cripelgate . . . inventa
 " cepit et asportavit . . . et
 " damnum habet ad valentiam
 " centum librarum."

³ Harl., Bencombe.

⁴ Harl., xvijj.

⁵ Harl., Mescredy.

⁶ The words between brackets have been supplied by translation from the Latin of the record.

⁷ 16,560, deforce.

⁸ The words in the record are *tempore quo*.

⁹ Jugement is omitted from Harl.

¹⁰ The conclusion of the plea, in the record, " unde petit iudicium

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A.D. 1342. was committed, and at which she has counted that the trespass was committed, that is to say on the Monday as above, she was sole, and the said Thomas and Nicholas, with other persons unknown, on the Tuesday next following, took her with force and arms at Stepney, and carried her away to the place where he says that he married her, and there the said Thomas, without the consent and against the will of the said Alice, married her, and by means of threats and through fear of death compelled her to speak the words of matrimony; and as soon as she could she immediately escaped out of his company, and caused him to be summoned to appear before Master William Mouncex, Official of the Arch-deacon of London, on which summons he appeared, and thereupon she proved before the Official the marriage to have been such as she has before said, and then upon her proffer judgment was pronounced that this marriage was null, as being one which was at any time capable of being annulled, and was void, and without matrimonial effect. And he has himself said that the divorce (where we say that the marriage was made by force, and for that reason there was the divorce of which he has spoken) was effected; and we demand judgment whether we ought to be put to answer to the deed of which *profert* is made in the name of the said Thomas in this action which is taken in respect of our goods carried off while we were sole; judgment, &c.—

“ si de aliqua transgressione eidem
 “ Aliciæ facta, de tempore quo
 “ ipsa fuit uxor ejusdem Thomæ,

“ ut prædictum est, contra fac-
 “ tum prædictum actionem versus
 “ eum habere possit seu debeat.”

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trespas se fist, et qe ele ad conte le trespas estre fait, A.D. 1342. cest a savoir le Lundy *ut supra*, si fut ele sole, et le dit Thomas et¹ Nicholas, od¹ altres desconuz, le Mardy prochein ensuaunt, la pristerent a force et armes a Stepenheth, et la menerent² taunqes al lieu oue il dit qil la esposa, et illoeqes le dit Thomas encontre le gree et la volunte la dite Alice lesposa *per minas ac per metum mortis*³ la eschacea a dire les paroles de matrimoigne, et meyntenant, si toust com ele poast, ele eschapa hors de sa compaignie, et le fit somoner de estre devant Meistre William Mouncex,⁴ Official Lersdekne de Londres, par quel somons il vint, ou ele⁵ prova devant⁶ lui les esposailles tiels com ele ad dit a devant, ou sour sa profre jugement se fist qe⁷ cel matrimoigne fut nul, com ceo qe a chesqune⁸ temps fut anientisable, et voide, sanz force de matrimoigne. Et il ad mesmes dit qe la devors (ou nous dioms les esposailles estre fetes par force, et sur cel cause la devorce du quel il ad parle) se fist; et demandoms jugement si al fait mis avant en le noun le dit Thomas en cest accion pris de noz biens emportes tauntcome nous estoioims soul devons etre mys a respoundre; jugement, &c.—

¹ Harl., ou.

² Harl., menere.

³ The words *per minas ac per metum mortis* are from the record. The reading in 16,560 is *par manace de mort*; in Harl. it is *per manas de morte*.

⁴ 16,560, Mouteus. His name does not appear in the record, the words being *coram Officiario de Arcubus Londoniarum*.

⁵ ele is omitted from 16,560.

⁶ 16,560, devers.

⁷ From this point to the end of the replication the words in the record are "*quod prædictum matrimonium sic inter eos celebratum*

" *esset nullum, ut illud quod in nullo tempore bonum extiterat, quæ ipsa parata est verificare, &c., et ex quo prædictus Thomas non dedit quin ipsa Alicia fuit sola tempore quo prædicta transgressio sibi facta fuit, et etiam cognovit quod divortium inter ipsam Aliciam et prædictum Thomam extitit factum, quod fuit ex causa prædicta, petit judicium si ad factum prædicti Thomæ in hac parte necesse habeat respondere, &c.*"

⁸ Harl., ascun, instead of a chesqune.

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A.D. 1342. *Grene*. As to that which you have said that she was sole at the time of the trespass, &c., I attach no importance to it, but since you have admitted that you were covert of Thomas at the time of the execution of this deed, which you have not defeated, and since no law puts us to plead as to the cause of the divorce, inasmuch as this Court cannot take cognisance of it, or take issue upon it, judgment how we ought to depart.—*Pulteney*. And we pray judgment (since you have not denied that she was sole at the time of the trespass, and that the marriage was such as we have said, and that the divorce whereof you speak was effected for such cause, which matters we will verify in whatsoever manner the Court shall see that it is to be done, if you will deny them) whether in this action we ought to be put to answer to the deed of which *profert* is made in the name of Thomas; and, as you have said nothing else to bar us, we pray our damages.—And they were adjourned.

Trespass. § Trespass, in the King's Bench, for a woman, in respect of goods carried away.—*Grene*. At the time at which she supposes the carrying away she was covert of one J. who by this deed released to us all actions; judgment, &c.—*Rokel*. That answer is double; one is that by reason of the coverture at that time we could not have the property; the other is that our husband released.—And *Grene* relied on the release.—

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Grene. De¹ ceo qe vous avez dit qe ele fut soul al temps A.D. 1342. del trespas, &c., jeo ne face fors, mes del houre qe vous avez conu qe vous estes covert de Thomas al temps de la confeccion de ceo fait, quel vous navez pas defait, et a la cause de la deforce² nul ley nous mette de pleder, car cest Court ne la purra conustre, ne sur ceo issue prendre, jugement com nous devons departier.—*Pultney.* Et nous jugement, del houre qe vous navez pas dedit qe ele fut sole al temps del trespas et qe les esposailles furent tiels com nous avoms dit, et sour cele cause devorce dount vous parles estre fait, les queux choses nous voloms averer en quele manere qe la Court verra qe soit affaire, si vous les voillez dedire, si en ceste accion al fait mys avant en le³ noun Thomas nous devons estre mys a respoundre; et autre rienz navez dit pur nous barrer, nous prioms nos⁴ damages.—*Et adjournantur, &c.*

§ Trespas⁵ en Baunk le Roi pur une femme des Trespas. biens emportes.—*Grene.* Al temps quant ele suppose lemporter ele fuit coverte dun J. le quel releassa a nous par ceo fait totes accions; jugement, &c.—*Rokel.* Cel respons est double; un est qe par la couverture adonques nous ne poms aver proprete, altre est qe nostre baroun releassa.—*Et Grene* relia sur le relees.—*Rokel.* Par ceo

¹ Hence to the end the parallel passage in the record is:—"Et "prædictus Nicholaus dicit quod, "ex quo prædicta Alicia non "dedit quin ipsa fuit uxor prædicti Thomæ, nec ipsa dedit quin prædictum scriptum sit "factum ejusdem Thomæ, et "eadem Alicia nihil aliud allegat "pro actione sua in hac parte "manutenenda nisi quoddam devortium inde inter ipsam et prædictum Thomam factum, de quo "Curia ista cognitionem habere

"non potest, petit judicium si "ipse de eadem transgressionem "respondere debeat, &c."

There were several adjournments, the defendant being held to mainprise, but in Hilary term in the 17th year of the reign the plaintiff "*non est pros.*"

² Harl., force.

³ Harl., ele, instead of en le.

⁴ 16,560, et nos.

⁵ This report of the case is from T. and 25,184.

No. 73.

A.D. 1342. *Rokel.* We shall not be barred by that deed; for we tell you that this same J. took us by force and carried us against our will to A. and there married us against our will; wherefore we afterwards sued for a divorce, upon which suit judgment was given for us for the reason aforesaid, and that judgment was affirmed on appeal before the Pope (and he showed a Bull to that effect); judgment whether we shall be barred by his deed.—*Grene.* The law does not put us to answer what you state about the divorce; and, since you have admitted that your husband J. released, judgment.—And they were adjourned.

Trespass
in respect
of beasts
taken in
the time of
a Prior's
predecessors.

(73.) § The Prior of Repton brought a writ of Trespass against several persons in respect of goods carried away, &c., in the time of his predecessor and in the time of another King; and the words of the writ were *Quare duos equos A., prædecessoris sui ad damnum Prioris nunc.*—*Pole.* Judgment of the writ; for this writ is not given by common law or by Statute, unless it were a writ of Trespass freshly brought before the death of his predecessor; and this he has not

No. 73.

fait ne¹ serroms pas barre; qar nous vous dioms qe A.D. 1342.
mesme celuy J. nous prist a force et nous mena coudre
nostre gree a A. et illoeqes nous esposa coudre nostre
assent; par quei puis nous suymes divorce,² sur quei
jugement fuit fait pur nous sur la cause susdite, quel
jugement sur appelle suy fuit afferme devant le Pape (et
moustra de ceo bulle); jugement si par soun fait serroms
barre.—*Grene.* A ceo qe vous parlez de divorce,² ley ne
nous met³ pas a respondre; et del hure qe vous avez
conu qe J. vostre baroun relessa, jugement.—*Et*
adjornantur.

(73.)⁴ § Le Priour de R.⁵ porta bref de Trespas vers
plusours des biens emportes, &c., en temps soun prede-
cessour et en temps daltre Roi; et le bref fuit *Quare*
duos equos A., prædecessoris sui ad damnum Prioris
*nunc.*⁷—*Pole.* Jugement du bref; qar ceo bref nest
pas done par comune ley ne par estatut nynt,⁸ sil⁹ ne
fuit de trespas¹⁰ freschement¹¹ porte¹² devant la mort
soun predecessour; et ceo nad il pas counte; qar si¹³

Trespas
des avers
pris en
temps soun
predeces-
sour.⁴
[Fitz.,
Trespas,
211.]

¹ 25,184, nous.

² 25,184, devorce.

³ T., mette.

⁴ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita coram Rege*, Trinity, 16 Edw. III., R^o. 108. It there appears that the action was brought by the Prior of Repyndone (Repton, Derbyshire) against Rhys ap Griffyn and William Ir. The words of the writ, as quoted in the record, were "quare vi et armis duodecim
"boves et decem jumenta quas
"fuerunt Radulfi nuper Prioris
"de Repyndone prædecessoris præ-
"dicti Prioris, pretii viginti libra-
"rum, apud Repyndone inventa
"ceperunt et asportaverunt, &c.,
"ad grave damnum ipsius Prioris."
In the declaration the taking is

alleged to have been "die Mercurii
"proximo ante festum Sancti Gre-
"gorii Papæ anno regni domini
"Edwardi quondam Regis Angliæ,
"patris Regis nunc, quartodecimo."
The issue was as stated in the re-
port. The record ends with the
award of the *Venire*.

⁵ The words of the marginal note
after Trespas are from 25,184 alone.

⁶ MSS. of Y.B., B.

⁷ For the actual words of the
writ see note 4 above.

⁸ nynt (in 25,184 nyent) is omit-
ted from 16,560 and Harl.

⁹ T., et sil.

¹⁰ The words of trespas are omit-
ted from T. and 25,184.

¹¹ 16,560, prochainement.

¹² 25,184, emporte.

¹³ si is omitted from Harl.

No. 74.

A.D. 1842. counted; for if this trespass was long before the death of his predecessor, so that there was laches in his predecessor, the writ would not lie, where his predecessor was neither deprived nor deposed.—SCOT. What you say is wrong; answer.—POLE. Not Guilty; ready, &c.—And the other side said the contrary.—And note that the words *contra pacem* were not inserted in the writ, because the trespass was in the time of another King, but the words *vi et armis* are sufficient.

*Scire
facias.*

(74.) § *Scire facias* on a fine. As to parcel one tenant prayed aid by way of parcenary. And, notwithstanding that this is, in a manner, in lieu of voucher, which does not lie on this writ, it seemed to the Court that he should have the aid. And as to another parcel, another tenant alleged that he held at the will of the Abbot of Waltham, and prayed judgment of the writ.—THORPE. We pray execution at our peril against him who disclaims in the freehold, for it is the common

No. 74.

ceo fuit de¹ long temps avant² la mort soun prede- A.D. 1349.
 cessour, issint qil y³ avoit lachesse en soun predecessour,
 le bref ne girreit pas, ou⁴ soun predecessour ne⁵ fuit
 prive ou⁶ depose.—SCOT. Vous dites mal; responez.—
 Pole. De rien coupable; prest, &c.—*Et alii e contra.*—
Et nota qil ny avoit pas *contra pacem* en le bref,⁷ *quia*
tempore allerius regis, sed "vi et armis" sufficit.

(74.)⁸ § *Scire facias* hors dune fyne. Quant a par- *Seire*
 cele un tenant pria eide par voie de parcenerie. Et, non *facias.*
obstante qe ceste en manere en lieu de vouchier, qe ne *[Fits.,*
 gist pas en ceo bref, semble a la Court qil lavera. Et *Ayde,*
 quant a altre parcelle, un autre⁹ tenant alleggea¹⁰ qil *130.]*
 tynt a la volunte Labbe de Waltham; jugement du bref.
 —*Thorpe.* Nous prioms execucion a nostre peril devers
 celui qe descleyme el fraunctenement, qar cest comune

¹ de is omitted from T.

² 25,184 and Harl., devant.

³ y is omitted from T.

⁴ 16,560 and Harl., si.

⁵ ne is omitted from 25,184.

⁶ The words prive ou are omitted from Harl.

⁷ T., &c., instead of en le bref.

⁸ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 434. It there appears that the action was brought by John le Forester and Emma his wife v. Philip de Frestlyng and Joan his wife. As to a portion of the tenements, the tenants alleged that it was, with other tenements, in the seisin of one Richard de Tylehurst, from whom it descended to his daughters Joan and Matilda, that it was assigned to Joan as her purparty on partition, and that it descended from her to her daughter the tenant Joan. Aid was there-

fore prayed of Matilda. As to a part of the residue, the tenants pleaded that it was held by one John Spenser, and as to another part that it was held by themselves at the will of the Abbot of Waltham: "Et hoc parati sunt verificare, et petunt judicium." The demandants replied: "quod prædicti Philippus et Johanna fuerunt tenentes de integro prædictorum tenementorum, prout iidem Johannes et Emma per breve suum supponunt, absque hoc quod prædictus Ricardus de Tyeleherst antecessor, &c., post tempus levationis finis prædicti, unquam aliquid habuit in prædictis tenementis unde prædicti, Philippus et Johanna petierunt auxilium, &c." Issue was joined thereon.

⁹ The words parcelle, un altre are omitted from Harl.

¹⁰ T. and 25,184, dit.

Nos. 75, 76.

A.D. 1342. course.—HILLARY. You never saw execution awarded where the tenant affirmed the freehold to be in another person.—*Thorpe*. It is different on this writ of execution from what it would be on a *Præcipe quod reddat*, because on this writ it is not the custom to take an averment on nontenure.—SHARDELOWE. You will take nothing if you do not maintain your writ, since he states the nature of his tenancy, in respect of which the writ does not lie against him.—So note the manner of pleading different in law.

Fine.

(75.) § *Gaynesford*. J. grants the tenements, &c., to be the right of Alice, and renders them to her, to have and to hold to her and to the heirs which T. shall have begotten on her body, &c.—SHARDELOWE. Is T. her husband?—SHARSHULLE. That is of no consequence.—And the fine was admitted.

*Quid juris
clamat.*

(76.) § *Quid juris clamat* against a tenant for term of life.—*Thorpe*. We claim by lease from one R., who is a total stranger to the cognisor, for the term of our life; judgment whether by reason of his grant we ought to attorn.—STONORE. Of whose inheritance?—*Thorpe*. Tenant in dower, and tenant by the curtesy of England shall say of whose inheritance, because they enter by act of law; but we who hold by purchase shall not say by force of whose lease; and the grantor is a stranger to our lessor; therefore it is for him to say how his cognisor became entitled.—STONORE. Answer.—*Thorpe*. We hold as above, remainder to one W.; judgment whether by reason of the grant of a stranger we ought to attorn.—*Pole*. He answers nothing as to the note;

Nos. 75, 76.

cours.—HILL. Unques¹ ne veistes execucion agarde ou A.D. 1342. il afferma fraunctenement en altre persone.—*Thorpe*. Il est altre en² ceo bref de execucion qen *Præcipe quod reddat*, qar homme en ceo bref³ ne use pas de prendre averement sur nountenue.—SCHARD. Vous ne prendrez rien si vous nel⁴ meyntenes, quant il⁵ dit la manere de sa tenance, de quel bref ne gist pas vers luy.—*Sic nota* la manere del plee diverse en ley.⁶

(75.)⁷ § *Gayn*.⁸ J. graunte les tenementz, &c., *Finis*. estre le droit Alice, et ces luy rent, a aver et tener a luy et a les heirs qe T. avera engendre de soun corps, &c.—SCHARD. Est T. soun baroun?—SCHAR. Ceo nest force.—*Et recipitur*.

(76.) § *Quid juris clamat* vers tenant a terme de vie.—*Thorpe*. Nous clamoms du lees un R.,¹⁰ qest tut estraunge al conisour, a terme de nostre vie; jugement si par soun graunt devons attourner.—STON. De qi heritage?—[*Thorpe*. Tenant en dowere et par ley Dengleterre dirrout de qi heritage],¹¹ qar ils entrent par fait de ley; mes nous qe tenoms par¹² purchace ne dirroms pas¹³ par¹⁴ force de qi lees; et le grantour est estraunge a nostre lessour; par quei a lui est a dire coment soun conissour avynt.—STON. Responez.—*Thorpe*. Nous tenoms *ut supra*, le remeyndre a un W.; jugement si par graunt destrange persone devons attorner.—*Pole*. Il respount rien a la note; jugement,

Quid juris clamat.
[*Fitz.*,
Quid juris clamat,
23.]

¹ Harl., En ceo bref unques.

² T., de.

³ 16,560, cas.

⁴ T., ne.

⁵ 25,184, qil.

⁶ The last sentence is from 25,184 alone.

⁷ From T., 16,560, 25,184, and Harl.

⁸ All the MSS., except 16,560, *Graunt*.

⁹ From T., 16,560, 25,184, and Harl.

¹⁰ T., W.

¹¹ The words between brackets are omitted from Harl.

¹² 16,560 and Harl., de.

¹³ T., dirroms, instead of ne dirroms pas.

¹⁴ par is omitted from 16,560 and Harl.

No. 77.

A.D. 1342. judgment, because he does not deny that he holds of the inheritance of our cognisor.

Quid juris
clamat. (77.) § The Earl of Salisbury sued a *Quid juris*
clamat against two persons, that is to say, W. and J., supposing that the two held for the life of A.—*Gaynesford*. We tell you that the cognisor leased to A., for his

No. 77.

gar il ne dedit pas qil ne tient del heritage nostre A.D. 1342.
conissour.

(77.)¹ § Le Counte de Salisbris suist *Quid juris* *Quid juris*
clamat vers deux, cest a saver W. et J., supposant qe *clamat.*
les deux tyndrent a la vie A.—*Gayn*. Nous vous
dioms² qe le conissour lessa a A., a sa vie, et graunta qe

¹ From T., 16,560, 25,184, and Harl., but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., Re. 432, d. It there appears that the action was brought by William de Montague, Earl of Salisbury, not against two persons as stated in the report, but against John Bonet alone as survivor. The object was to compel him to attorn in respect of a messuage, land, and rent in Little Marlow (Bucks), which Isabel late wife of Roger Taillard, of Little Marlow, had granted to the Earl by fine.

² According to the record, John "quæsitus, super nota finis prædicta, quid juris clamat in tenementis prædictis," answers that Isabel "per scriptum suum (with warranty) concessit, tradidit, et dimisit quibusdam Thomæ Bonet et Simoni le Schirreve tenementa prædicta (together with the reversion of certain lands let to farm) habenda et tenenda . . . ad totam vitam eorundem," at a certain rent for the first seven years, and a certain other rent for the residue of the term. "Et si prædicti Thomas Bonet et Simon infra prædictos septem annos obiissent, tunc omnia terræ et tenementa prædicta remanerent heredibus et assignatis sive executoribus ipsorum Thomæ Bonet et Simonis usque ad finem prædictorum septem annorum . . .

"Postea . . . prædictus Simon per scriptum suum concessit, tradidit, et dimisit prædicto Johanni Bonet totum statum suum quem habuit in prædictis tenementis, una cum reversionibus prædictis, tenendis una cum prædicto Thoma Bonet ad totam vitam ipsius Simonis in forma prædicta." Afterwards Isabel (having previously acknowledged the receipt of the rent for the first seven years, and now acknowledging the receipt of the rent for the following two years in advance) "ratas habens et gratas concessiones, traditiones, et dimisiones prædictas prædicto Johanni per prædictum Simonem de statu suo de tenementis prædictis factas . . . concessit per . . . scriptum suum (dated the 16th of January, in the 12th year of the reign, with warranty for the lives of Thomas and Simon) pro se et heredibus suis, quod si iidem Thomas Bonet et Johannes obiissent infra prædictos novem annos, quod tunc tenementa prædicta . . . heredibus, executoribus, vel assignatis ipsorum Thomæ Bonet et Johannis remanerent usque ad finem prædictorum novem annorum . . . Postea prædicta Isabella . . . per scriptum suum concessit et vendidit prædictis Thomæ Bonet et Johanni totum boscum et sub-

No. 77.

A.D. 1342. life, and granted that, if he should die within seven years, his heirs or executors should hold until the end of the term; and this A. leased his estate to W., against whom this writ is sued, and to one R., which R. granted his estate to J., who is a party; and the cognisor granted to them that they should hold for two years beyond the seven years for their heirs and executors, and granted that they might cut wood for their profit for three years; and three years are still to come of the term for which our executors are to hold, and a quarter of a year for cutting of wood; so our estate is other than is supposed by the note; judgment.—HILLARY. You only claim a term for life, and no other note can be made on such a tenancy, for the note can not make mention of your conditions; and this may be saved to you.—*Thorpe*. The same case between other persons is pending in judgment, but one has not seen in such a case that, during the term, &c., saved by the condition, the tenant has been put to attorn.—STONORE. There is no great harm in this delay, for no one can be disinherited.—*Thorpe*. If the Court adjudge that in respect of that tenancy we ought to attorn, then, saving our conditions, we are ready to attorn.—They were adjourned.

“ boscum crescentem super tene-
 “ mentis prædictis, excepta una
 “ pecia bosci quæ vocatur le Gor-
 “ stenegrove, ad succidendum, pro-
 “ sternendum, et cariandum totum
 “ boscum et subboscum prædictos,
 “ pro eorum voluntate, a die Lunæ
 “ prædicto [in Festo Sancti Ed-
 “ mundi Regis et Martyris anno
 “ prædicti domini Regis nunc
 “ quarto decimo] usque ad Festum
 “ Annunciationis beatæ Mariæ
 “ tunc proxime sequens, et a dicto

“ Festo Annunciationis usque ad
 “ finem duorum annorum ex tunc
 “ proxime sequentium. Et dicit
 “ quod prædicti Thomas Bonet et
 “ Johannes tenementa prædicta in
 “ forma illa tenuerunt usque ad
 “ obitum ipsius Thomæ. Et dicit
 “ quod nec terminus prædictorum
 “ novem annorum nec terminus
 “ prædictus ad succidendum et ven-
 “ dendum boscum et subboscum
 “ prædictos nondum elapsi sunt.”

No. 77.

sil deviaſt deinz vij aunz qe ſes heirs ou¹ executours A.D. 1342.
 tiendrent tanqe al fyne du terme, le quel A. leſſa ſoun
 estat a W., vers qi ceo bref eſt ſuy, et un R., le quel R.²
 graunta ſoun estat a J. qeſt partie; et³ le coniaſſour
 graunta [a eux qil teniſſent par ij aunz outre les vij
 aunz pur lour heirs et executours, et graunta]⁴ qils
 purroient couper boys a lour profit par trois aunz,⁵
 dount trois⁶ aunz ſount unquore a venir del terme qe
 noz executours tyndrent, et un quarter dun⁷ an pur
 couper de boys; iſſint noſtre estat altre qe neſt ſuppoſe
 par la note; jugement.—HILL. Vous ne clames forſqe
 terme de vie, et altre note ne ſe poeſt faire ſur tiel
 tenance, qar de voz condicions ne poeſt la note faire
 mencion; et ceo vous poeſt eſtre ſalve.—Thorpe. Meſme
 le cas eſt pendaunt en jugement entre autres perſones,
 mes homme nad pas viewe en tiel⁸ cas qe duraunt le
 terme, &c., ſalve par la condicion qe tenant ad eſte mys
 dattourner.—STON. Il ny ad pas graund mal en ceſte
 delay, qar nul homme poeſt eſtre deſherite.—Thorpe.
 Si Court agarde⁹ qe de cele tenaunce nous devons
 attourner, et nos condicions ſalves,¹⁰ preſt ſumes
 dattourner.¹¹—*Adjornantur.*

¹ T. and Harl., et ſes.

² The words le quel R. are omitted from 25,184.

³ The words qeſt partie et are omitted from 16,560 and Harl.

⁴ The words between brackets are omitted from T.

⁵ In Harl. are added the words outre les vij. aunz.

⁶ 25,184, iiij.

⁷ 25,184 and Harl., del.

⁸ T., cele.

⁹ Harl., ajuqe.

¹⁰ 16,560, ſaufves.

¹¹ From the beginning of Thorpe's ſpeech to the end of the caſe the correſponding part of the record is

as follows: "Et [Johannes] non
 "intendit quod ipſe de tali ſtatu
 "ad præſens prædicto Comiti ſe
 "attornare debeat, &c. Unde petit
 "judicium, &c. Et, ſi videatur
 "Curie quod ipſe de tali ſtatu
 "attornare debeat, ſalvis ſibi bene-
 "ficiis quæ ei competere debent
 "per conventiones, conſeſſiones,
 "et warrantias in ſcriptis præ-
 "dictis contentas, paratus eſt ad
 "faciendum ea quæ Curia conſide-
 "raverit in hac parte, &c.

"Et prædictus Comes, non cog-
 "noſcendo conventiones, con-
 "ſeſſiones, et warrantias quas
 "prædictus Johannes ſuperius

Nos. 78-80.

A.D. 1342. (78.) § Dower against five persons.—When one had
 Dower. made default, the other four took upon themselves the tenancy of the whole, and they vouched the fifth, who had made default, to warrant; and he warranted and vouched the heir of the husband, who came and asked by what, &c. And this fifth person made *profert* of the deed of the heir's ancestor, which was denied. And the woman recovered at once against the tenants, and they to the value.—And process was had against the jury.

Error. (79.) § The Master of the Scholars of Merton Hall in Oxford brought a writ of Fresh Force in Oxford against the Prior of the Friars of St. Augustine before the Mayor and Bailiffs, and recovered by verdict; whereupon the Prior's successor sued a writ of *Pone per vadium* out of the Chancery to the Sheriff to attach the Mayor and Bailiffs to cause the record to come before the King, returnable in the King's Bench; and afterwards a distress issued.

Trespass. (80.) § On a writ of Trespass, in respect of sheep carried away with force and arms, *Derworthy* said: as

" allegavit, dicit quod, cum idem " Johannes non dedit quin ipse " tenet prædicta tenementa ad " terminum vite, prout in nota " prædicti finis supponitur, petit	" quod prædictus Johannes inde " se attornet, &c." There is an adjournment, but nothing more, on the roll.
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Nos. 78-80.

(78.)¹ § Dowere vers v.—Quant un avoit fait de-
faute,² les iiij empristrent la tenance del entier, et
vouchèrent a garrantir le quinte qe avoit fait defaute,
qe garrantist et³ voucha leir le baroun, qe vynt et
demanda par quei,⁴ &c. Et il mist avant le fait, soun
auncestre, qe fuit dedit.—Et la femme recoverist tantost
vers les tenantz, et eux⁵ a la value.—Et proces est fait
vers la jure.

A.D. 1342.

Dowere.

(79.)⁶ § Le Mestre des Escolers de la Sale de Mertone
en Oxoneforde porta fresche force en Oxoneforde vers le
Priour des Freres⁸ de Seint Augustin, devant Maire et
baillifs, et recoverist par verdit; sur quei le successour
le Priour suist bref al Vicounte *Pone per vadium*
hors de Chauncellerie de attacher le Maire et les baillifs
de faire venir le record [devant le Roi retournable en
Baunk le Roi; et puis destresse issit].⁹

Errour.⁷

[Fitz.

Errour,

69;

Recorde,

34;

Vari-

aunce, 60.]

(80.)¹⁰ § En un bref de Trespas des owailles afforce
et armes pris et amenes, *Derr.* quant a la venir a

Trespas.

¹ From T., 16,560, 25,184, and Harl.

² In T. are added the words apres defaute.

³ Harl., garraunt est, instead of garrantist et.

⁴ The words par quei are omitted from T.

⁵ T., ceux.

⁶ From T., 16,560, 25,184, and Harl.

⁷ The marginal note is from 25,184.

⁸ The words des Freres are from 25,184 alone.

⁹ The words between brackets are omitted from 25,184. The remainder of the case, as it appears in the four MSS., is merely a repetition of the case which has already been printed as No. 20 of Easter Term, 15 Edw. III. The variations are

very slight, and not sufficient to justify the expense of reprinting the whole report, especially as the principal portion of the record (which belongs to Easter Term in the 15th year) appears in the appendix to a previous volume. The notices of parts of the case in Fitzherbert's Abridgment are placed under this Trinity Term, and have therefore been here inserted in the margin.

¹⁰ From L. alone, but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R. 5. It there appears that the action was brought by Thomas Boys of Hareston against William de Bodbran, the younger, Odo Store, and John de Ferers of West Newton in respect of a taking of sheep, oxen, and cows. Ferers denied the tres-

No. 81.

A.D. 1342. to the coming with force, &c., Not Guilty. And as to the taking of the sheep he said that one Hugh de Hareston held of the defendant certain tenements in the vill in which he complains [of the taking] by certain services; and because the same services were in arrear for such a time, he did take the same sheep in a place which is parcel of the same tenements; and *Derworthy* demanded judgment whether for such a taking the plaintiff could assign tort in his person.—*Gaynesford*. You took our sheep with force, &c., of your own tort, as our writ purports.—*Derworthy*. You must say that we took them for such a cause as your writ purports, and not for such as we have stated.—*KELSHULLE*. It is all to the same effect, &c.

Assise of
Novel
disseisin.

(81.) § In an assise of Novel disseisin the plaint was made in respect of a messuage. It was found by the Assise that the plaintiff was disseised.—*SHARSHULLE*. Was the disseisin effected with force and arms?—*THE ASSISE*. No, Sir.—*SHARSHULLE*. It is a messuage in respect of which the plaint is made; wherefore we will know, for the King, how the disseisin was effected.—*THE ASSISE*. Sir, the plaintiff was in the house, and the defendants entered into the same house, and by a colour which they had they claimed the messuage as their own messuage, and took the plaintiff and carried him out of the same house.—Therefore it was adjudged that the disseisin was made with force and arms, and that the plaintiff should recover, and that the defendants should be taken, &c.

pass as alleged. He, as well as Bodbran and Store, traversed the taking of the oxen and the cows, and issue was joined thereon. Bodbran justified the taking of the sheep at Hareston (Devon) as in the report, and Store said he only

aided in the taking. The plaintiff's replication, on which issue was joined, was "quod iidem Willelmus et Odo, prædictis die et anno, ceperunt prædicta averia, de injuria sua propria, sicut ipse per breve suum supponit."

No. 81.

force, &c., de rien coupable. Et quant a la prise des A.D. 1342.
owailles il dit qe un Hugh de Harestone¹ tient del
defendant certeyn tenements en la ville ou il se pleint
par certeyn services; et pur ceo qe mesmes les services
par tant de temps furent arere, si prist il mesmes les
owailles en un lieu qe est parcel de mesmes les tene-
ments; et demanda jugement si de tiel prise tort en sa
persone put assigner.—*Gayn.* Vous pristez noz owailles
a force; &c., de vostre tort de-mene, auxi com nostre bref
vost.—*Derr.* Il covynt qe vous diez qe nous prismes par
tiel cause com vostre bref voillt, et noun pas tiel cause
com nous avoms dit.—*KELS.* Tut est dun effect, &c.

(81.)² § En un assise de Novele Disseisine la plainte Assise de
Novele
disseisine.
fut fait dun mees. Trove fut par lassise qe le pleintif
fut disseisi.—*SCHAR.* Fut la disseisine fait a force et
armes?—*LASSISE.* Sire, nanyl.—*SCHAR.* Ceo est un
mees dont la plainte est fait; par quei nous voloms
saver, pur le Roy, coment disseisine fut fait.—*LASSISE.*
Sire, le pleintif fut en la mesoun, et, les defendants
entrent en mesme la meson, et, par un colour qils
avoint, ils clamerent les mees com lour mees propre, et
pristrent la pleintif et leporterent hors de mesme la
mesoun; par quei fut agarde la disseisine a force et
armes, et qe le pleintif recoverast, et qe les defendants
fussent prise, &c.

¹ L., A., instead of Hugh de
Harestone.

² From L. alone.

No. 82.

A.D. 1342. (82.) § Thomas the son of James Freysel brought a *Scire facias* against James the son of James Freysel, to cause him to show if he could say anything why certain tenements in Risborough ought not to remain to the same Thomas according to the purport of a fine which was levied, &c.—James came and said that he held the same tenements for term of life by lease from one Thomas Castel, without whom, &c., and prayed aid of him.—To this Thomas said that James on the day of the purchase of the writ of *Scire facias* had a fee [in the tenements], and of this he tendered averment; and James said the contrary.—Now came the Inquest between them and was charged on their mise.—SHARSHULLE. Good people, your charge shall not be only whether James had a fee or only a term for life, &c.; though you find among you that he had only a term for life, still you shall tell us whether he then held the tenements by lease from Thomas Castel or not. And although this plea be entered on the roll, the issue ought properly to have been that he did not hold the tenements by lease from Thomas Castel for term of life, &c.—And SHARSHULLE's opinion was that if the Inquest had said that James had only a term for life, &c., then, if that tenancy had been by lease from another and not by lease from Thomas Castel, judgment would be given against James.—STONORE and the Serjeants were of the contrary opinion on this point, and said that the issue which was entered on the roll was proper, and that the Inquest should not be charged as to any other matter but whether James had a fee or a term for life, according to the mise, &c.; for when James said that he had only a term for life and prayed aid, &c., then Thomas might have had the opportunity to traverse by saying that he had not held anything by lease from Thomas Castel, or that he had a fee. And because he elected then to take issue on the latter the Inquest was charged solely upon that. And

No. 82.

(82.)¹ § Thomas le fitz James Freysel² porta un *Scire facias* vers Jaues le fitz James Freysel³ a *Scire facias*. A.D. 1343.
 moustrer sil soit rienz dire pur quei certeyn tenementz en R.⁴ [ne] dussent remeindre a mesme cesty T. solon la purport⁴ dun fyn qe se leva, &c.—J. vynt et dit qil tient mesmes les tenementz a terme de vie de lees un Thomas Castel,⁵ sanz [qi], &c., et pria eide de luy.—A quei T. dit qe J. jour du bref de *Scire facias* avoit fee, et ceo tendist daverer; et J. la reverse.—Ore vynt lenquest entre eux, et fut charge sour lour myse.—SCHAR. Bonz gentz, vostre charge ne serra mye solement le quel J. avoit fee ou soulement terme de vie, &c.; mes qe vous trovez entre vous qil navoit qe terme de vie, unqore vous nous dirrez le quel il tient adonques les tenementz de lees Thomas Castel⁶ ou ne mye. Et ccment qe ceo plee soit entre en roule, ceo dust proprement aver este lissu qil ne tient my les tenementz de lez Thomas Castel⁶ a terme de vie, &c.—Et sa oppinion fut si lenquest ust dit qe J. navoit qe terme de vie, &c., si cele tenance fut dautri lees et noun pas de lees Thomas Castel,⁵ qe jugement serroit rendu contre J.—STONORE et les Serjeauntz furent de ceo en contrarie oppinion, et disoient qe lissu qe fut entre en roule fut covenable, et qe lenquest ne serroit charge dautre chose mes le quel J. avoit fee ou a terme de vie solom la misse, &c.; qar quant James dit qil navoit qe terme de vie et pria eide, &c., adonques T. put aver eu lieu ou daver traverse qil nust rienz tenuz de lees Thomas Castel,⁵ ou qil avoit fee. Et pur ce qil esleust adonques de prendre issu sur le dreyn, lenquest fut solement charge sur ceo: qe isserent

¹ From L. alone, but corrected by the record, *Placita de Banco*, Hilary, 16 Edw. III., R^o. 158, d. The case is that which appears, in the form of a short note, as No. 82 of Y.B., Hil., 16 Edw. III. See the notes there as to the record.

² L., Fricelle.

³ L., B.

⁴ L., purpartie.

⁵ L., R., instead of Thomas Castel.

⁶ L., Richard, instead of Thomas Castel.

Nos. 83-85.

A.D. 1842. they went out to speak together as to their verdict, and came back to give their verdict. And James was called, and did not come; wherefore the Court would not take any inquest, but awarded execution, &c.

Account. (83.) § Adam del Herneys brought his writ of Account against J. Marche of Nottingham, returnable now at the Octaves of Trinity. The Sheriff returned that J. had nothing by which he could be attached, and that he was not found; but J. came in his own person to the bar, and Adam was essoined. And because J. had not a day in court, and Adam's essoiner could not say that he knew whether the person who professed himself was the same J. against whom Adam sued, &c., the Court took no notice of J.'s coming, but will adjudge and adjourn the essoin, and will award the *Capias* against J.—It would be otherwise if the plaintiff had appeared in his own person or by attorney.

Scire
acias.

(84.) § On a *Scire facias* the Sheriff returned *Scire feci* to such an one *quod sit coram Justiciariis domini Regis apud Westmonasterium* on such a day *ad ostendendum secundum tenorem istius brevis* by such an one and such an one.—And the return was adjudged to be good, notwithstanding that the Sheriff had not warned the tenant to be before the Justices, on a certain day, to do some certain thing, because these words *ad ostendendum secundum tenorem, &c.*, must be understood only in accordance with the words of the writ, to wit: *ad ostendendum si quid pro se habeat vel dicere sciat, &c.*

Account. (85.) § Robert Beaufitz brought his writ of Account against William le Milnere of Empingham, and counted

Nos. 83-85.

denparler sour lour verdist, et revyendrent daver dist A.D 1342. lour verdist. Et J. fut demande, qe ne vynt pas; par quei la Court ne voleit prendre nul enquest, mes agarda execucion, &c.

(83.)¹ § Adam del Herneys porta son bref dacompte Acompte. vers J. Marche de Notingham, retournable ore a le uitaves de la Trinite. Le Vicounte retourna qe J. navoit rien par quei estre attache, ne qil ne fut pas trove; mes J. vynt en propre persone a la barre, et Adam fuit essone. Et pur ceo qe J. na pas jour en cort et lessonour A. ne put mye conustre le quel cesti qe se profry fut mesme cesti J. vers qi A. suy, &c., et la Court navoit mye regard a la venu J., mes ajuggera et ajournera lessone, et agardera le *Capias* vers J.—*Secus* si le pleintif ust apparu en propre persone ou par attourne, &c.

(84.)² § En un *Scire facias* le Vicounte retourna *Scire facias*. *Scire facia* un tiel *quod sit coram Justiciariis domini Regis apud Westmonasterium* a tiel jour *ad ostendendum secundum tenorem istius brevis* par un tiel et un tiel.—Et le retourn fut agarde bone, *non obstante* qe le Vicounte navoit mye garni le tenant destre avant les Justices a certeyn jour a certeyn chose faire, pur ceo [qe] cele paroule *ad ostendendum secundum tenorem*, &c., deit estre entendu soulement ceo qe le bref volt, *scilicet ad ostendendum si quid pro se habeat vel dicere sciat*, &c.

(85.)³ § Robert Beaufitz⁴ porta soun bref dacompte Acompte. vers William le Milnere de Empingham,⁵ et conta qe

¹ From L. alone.

² From L. alone. Compare this with the report No. 22 of Easter, 16 Edw. III., and mark the difference, the words *ad ostendendum* appearing in the one return and not in the other.

³ From L. alone, but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., Ro. 57, d.

⁴ Of Stamford, mercer, according to the record.

⁵ L., Gupynham. William le Milnere de Braunston de Empingham, according to the record.

No. 86.

A.D. 1342. that this same William received a certain sum of money by the hand of A. the wife of this same Robert, &c.—*Derworthy*. Since Robert has counted that William was receiver by the hand of his wife, &c., and this is by law a receipt by his own hand, and since he has not counted that the receipt was by his own hand, we demand judgment of the count.—*SHARSHULLE*. He has counted according as the matter is, perhaps; wherefore, &c.—*Derworthy*. We say, as before, that this receipt which he surmises against us is in law equivalent to a receipt by his own hand; wherefore we say that we were not his receiver as he has counted; ready to make this good by our law.—*Thorpe*. If you will give that for an answer, we will imparl.—And the opinion of the Court was that in such a case the wager of law was not right, because the receipt was just as if it had been by the hand of another person; wherefore, &c.—*Derworthy* did not dare to abide judgment, but said that the defendant never was the plaintiff's receiver; ready, &c.—And the other side said the contrary.

Excommu-
nication.

(86.) § Thomas de Haselshawe brought his writ against one A.—*Derworthy*. We tell you that this same Thomas is excommunicated, &c.—And thereupon he made *profert* of the Bishop's letter which purported that Thomas de Haselshawe the younger was excommunicated.—*Gaynesford*. Sir, you see plainly how this letter varies from our writ, so you ought not to understand that Thomas who is now plaintiff is the person of whom the letter speaks; wherefore we demand judgment, &c.—*Derworthy*. We say that there are two Thomas de Haselshawes, the elder and the younger, and therefore it was absolutely necessary that the Bishop should by his letter certify whether it was the elder or the younger; wherefore, &c.—And because he did not

No. 86.

mesme cesti W. receust certeyne summe des deners par A.D. 1342. mye le mayn A. la ¹ femme ² mesme cesti R., &c.—*Derr.* De pus qe R. ad conte qe W. fut receyvour par my la mayn sa femme, &c., et ceo est en ley receyte par my sa mayn demene, et del houre qil nad my counte la receyte par my sa mayn demene, nous demandoms jugement de counte.—*SCHAR.* Il ad counte solom ceo qe la matere est, par cas; par quei, &c.—*Derr.* Nous dioms, com devant, qe cel receyte quel il nous sourmette cy est en ley auxi com un receyte par sa mayn demene; par quei nous dioms qe nous ne fumes pas son reseyvour auxi com il ad counte; prest a faire par nostre ley.—*Thorpe.* Si vous voilletz ceo pur respons, nous enparleroms.—Et oppinion de Court fuit qe en tiel cas le ley ne fut my resonable, pur ceo qe la receyte fut auxi com par autre mayn; par quei, &c.—*Derr.* nosa mye demurer, mes [dit] qil ne fut unqes son receyvour; prest, &c.—*Et alii e contra.*

(86.) ³ § Thomas de Haselshawe ⁴ porta son bref vers un A.—*Derr.* Nous vous dioms qe mesme cesti T. sy est escomenge, &c.—Et sur ceo il mist avant la lettre Levesqe ⁵ qe voleit qe T. de H. le puisne fuit escomenge. —*Gayn.* Sire, vous veiez bien coment la lettre sy est wariant a nostre bref, issint ne devez mye entendre qe T. qore est pleintif est cesti de qi la lettre ⁶ parle; par quei nous demandoms jugement, &c.—*Derr.* Nous dioms qils sont deux T. de H., leisne et le puisne, par quei il covyent aforce qe Levesqe certifiast par sa lettre le quel leisane ou le puisne; par quei, &c.—Et pur ceo

¹ L., sa.

² Called Matildis la Milnere in the record.

³ From L. alone, but corrected by the record, *Placita de Banco*, Trinity, 16 Edw. III., R^o. 48, d, where it appears that this was an action of Account brought by Thomas de

Haselshawe against Stephen Trip and William, Vicar of the church of Stoke (Middlesex).

⁴ L., Hathershawe.

⁵ Of Bath and Wells, according to the record.

⁶ L., bref.

Escomen-
gement.

No. 87.

A.D. 1842. deny that it was the same person, &c., the parol was put without day.

Proces. (87.) § *Peter de Richemond* came to the bar, and showed how a lady had brought her writ of Dower against Anthony Lucy, who vouched W. Dacre to warrant as a stranger. W. came and asked of A. what A. had to bind him; and Anthony made *profert* of the deed of W. Dacre's father with warranty. W. Dacre entered into warranty as one who had nothing by descent in fee simple from him by whose deed, &c., and rendered dower to the woman; wherefore it was adjudged that the lady should recover against Anthony, and that he should recover over to the value, against W. Dacre when the latter should have, &c., whereas, Sir, [said *Richemond*] it is entered on the roll simply that the lady should recover against Anthony, and that Anthony should recover over to the value against W. Dacre; and thereupon a writ issued to the Sheriff simply directing him to cause the lady to have her dower against Anthony, and Anthony over to the value against W. Dacre; wherefore Sir, we pray that the roll may be amended, and also a *Supersedeas* to the Sheriff directing him to do nothing by virtue of that writ which came to him in that manner, &c.

No. 87.

qil ne dedit mye qil fut mesme la persone, &c., et A.D. 1342.
paroule fut mys saunz jour.

(87.)¹ § *Pieres de Richemond* vynt a la barre, et Proces. moustra coment un dame avoit porte soun bref de Douwere vers Antoyne Lucy, qe voucha a garrantir W. Dacre com estrange. W. vynt et demanda de A. ceo qil avoit de luy lier; et il mist avant le fet son pere ov garrantie. W. entra en la garrantie com cesti qe rien navoit par descente en fee simple de cesti par qi fet [&c., et] rendi douwere a la femme; par quei fuit agarde qe la dame recoverast vers A., et il outre a la value vers W. quant il averoit ou Sire, il est entre en roule simplement qe la dame recoverast vers A., et il, outre a la value vers W.; et sour ceo bref issu a Vicounte simple de faire la dame daver soun dowere devers A., et il outre a la value vers W.; par [quei], Sire, nous prioms qe le roule soit amende, auxint *Supersedeas* a Vicounte qil ne face rien pur cel bref qe luy vynt par la manere, &c.²

¹ From L. alone.

² At the end of this Term there appear in 25,184 eight more cases. After careful comparison, however, it has been ascertained that they are all out of place. They have

already been printed as Nos. 20 to 27 (inclusive) of Easter Term, 14 Edward III. There are no variations in the MS. which could justify the expense of reprinting the reports.

MICHAELMAS TERM
IN THE
SIXTEENTH YEAR OF THE REIGN OF
KING EDWARD THE THIRD
AFTER THE CONQUEST.

MICHAELMAS TERM IN THE SIXTEENTH YEAR
OF THE REIGN OF KING EDWARD THE
THIRD AFTER THE CONQUEST.

Nos. 1, 2.

A.D. 1342.
Account.

(1.) § The Earl of Hereford brought a writ of Account against one J. Process was continued until J. was outlawed. And afterwards J. surrendered, and sued a charter of pardon [of outlawry] and had it. And he sued a garnishment against the Earl returnable now. And no writ is returned. And the Earl proffered himself, and prayed that J. might be called ; and J. did not come.—*R. Thorpe*. We pray that the charter be repealed and lose its force, and we pray a *Capias* to take J. and his mainpernors.—*STONORE*. Sue the *Capias utlagatum* and a *Capias* against his mainpernors, and that his lands and chattels may be seized, &c.

*Scire
facias.*

(2.) § The Dean and Chapter of Lichfield sued a *Scire facias* against the Prior of Newport Pagnel upon a recovery by which they had recovered an annuity against the Prior.—*R. Thorpe*. You have here the Prior of Tickford, which Tickford is a hamlet of Newport Pagnel, and he is warned, and he demands judgment of this writ by which he is named Prior of Newport Pagnel.—*Pole*. We have brought our writ and taken

DE TERMINO MICHAELIS ANNO REGNI REGIS
EDWARDI TERTIO A CONQUESTU SEXTO
DECIMO.¹

Nos. 1, 2.

(1.)² § Le Counte⁴ de Hereforde porta bref dacompte A.D. 1342.
vers un J. Proces continue tanqe il fut utlage; et puis Acompte.³
se rendist, et suist chartre de pardoun, et lavoit; et [Fitz.,
suist garnissement vers le Counte retournable a ore. Et Chartre,
nul bref est retourne. Et le Counte se profri et pria qe 9.]
J. put demande; et il ne vint pas.—*R. Thorpe*. Nous
prioins qe la chartre soit repelle et perde sa force, et
*Capias*⁶ de prendre luy et ses⁷ maynpernours.—*STON*.
Suez le *Capias utlagatum* et ses⁷ maynpernours, et qe
ses terres et chateux soient seisis, &c.

(2.)⁸ § Le Dean et le Chapitre⁹ de Lichefelde¹⁰ *Scire*
suerent *Scire facias*¹¹ vers le Priour de Neuport¹² *facias*.
Paynell hors dun recoverir par quel ils avoint recoveri [Fitz.,
vers le Priour une annuite.—*R. Thorpe*. Vous avez cy Briefe,
le Priour de Tikeford, quel Tikeford est hamel de 656.]
Neuport Paynell,¹³ et il est garny, et demande jugement
de ceo bref par quel il est nome Priour de Neuport
Paynell.¹³—*Pole*. Nous avoms porte nostre bref et pris

¹ The reports of this Term are from the Temple MS., the Lincoln's Inn MS., the Harleian MS. No. 741, and the Additional MSS. in the British Museum numbered respectively 16,560 and 25,184.

² From the five MSS. as above.

³ T., Accounte.

⁴ L., Conte; Harl., Compte.

⁵ R. is omitted from L.

⁶ L., *Cape*.

⁷ L. and 25,184, ces.

⁸ From the five MSS. as above,

but corrected by the record, *Placita de Banco*, Mich., 16 Edw. III., R^o. 49.

⁹ L., Chapistre.

¹⁰ Harl. and 16,560, Nighole. The name is omitted from L.

¹¹ For the first ten words are substituted in T. the words *Scire facias* suy par le Dean et le Chapitre de Lichefelde.

¹² Harl., Stemport, and so throughout the report.

¹³ Paynell is from T. alone.

No. 2.

A.D. 1342. our suit against the Prior of Newport Pagnel, and he does not come, and therefore we pray execution by reason of his default.—*Thorpe*. We tell you that there is no other Prior in Newport Pagnel but ourselves, and we are Prior of Tickford, known by that name, and by no other, from the time of the foundation; judgment of the writ.—*Pole*. I have nothing to do with you; I have brought my writ and taken my suit in accordance with the record, as the law requires; and he against whom my writ is brought does not come; judgment.—*R. Thorpe*. I say that I am Prior of the House which you think to charge by your suit; but because I am wrongly named I demand judgment.—*STONORE*. If you do not answer as successor to the Prior against whom he recovered there is nothing for you to say, &c.; and if your predecessor came by such name as is supposed by the record, and made, upon good contract, an obligation, with the assent of his Convent, to the Dean and Chapter, and they afterwards recovered by judgment, is not that a reason why you should be charged? And the writ could not be different.—*Thorpe*. If you recover against me, by default, by the name of J. Thorpe when my name is W., and afterwards you sue a *Scire facias* against me, shall I not say, in order to escape from execution, that my name is W. and not J.? —*SHARSHULLE*. You can do so if the judgment was given on default; but if you come in your own person, and answer by the name of J., you shall not

No. 2.

nostre suyte vers ¹ le Priour de Neuport Paynell,² et il ³ A.D. 1342. ne vint pas, par quei ⁴ nous prioms execucion par sa defaute.—*Thorpe*. Nous vous dioms qil y ad nul autre Priour [en Neuport Paynell ⁵ forsqe nous, et nous sumes Priour] ⁶ de Tikoford, conu ⁷ par cæl ⁸ noun, et nul autre, de temps de la fundacion; jugement du bref.—*Pole*. Jeo nay ⁹ qe faire de vous; jay porte mon bref et pris ma suyte acordaunt al record, come ley voet; et celuy vers qi mon bref est porte ne vint pas; jugement.—*R. Thorpe*. Jeo die qe jeo su ¹⁰ Priour de la mesoun quele vous biez charger par ¹¹ vostre suite; mes de ceo qe jeo sui malement nome jeo demande jugement.—*STON*. Si vous ne responez com successeur a celuy vers qi il ¹² recoverist ceo nest nient a vous a parler, &c.; et ¹³ si vostre predeceussour vint ¹⁴ par tiel noun ¹⁵ come est suppose par le recorde, et fist, sour ¹⁶ bon contracte, une obligacion, del assent son ¹⁷ Covent, al ¹⁸ Dean et Chapitre, et puis il recoverassent par jugement, nest pas ¹⁹ resoun qe vous soiez charge? Et le bref ne poet estre autre.—*Thorpe*. Si vous recoverez vers moy par defaute par noun de J. Thorpe ou jeo sui nome W., et puis vous suyez *Scire facias* vers moy, ne dirray jeo,²⁰ pur estourtre dexecucion, qe jay a ²¹ noun W. et noun pas J.?—*SCHAR*. Si fretz si ²² le jugement se fist sour defaute; mes si vous veignes en propre persone, et responez par noun de J., vous ne serrez pas resceu apres

¹ Harl., daver.² Paynell is from T. alone.³ T., sil.⁴ The words par quei are from L. alone.⁵ The words between brackets are omitted from 25,184.⁶ L. and Harl., com; 16,560, come.⁷ 25,184, tiel.⁸ 16,560, nay pas.⁹ T., su; L., se; 16,560, sue.¹⁰ L., de.¹¹ L., jeo.¹² et is omitted from L.¹³ Harl., vienit; 16,560, vient.¹⁴ noun is omitted from Harl., and 16,560.¹⁵ T., pur; L., suor.¹⁶ L., com son.¹⁷ L. and Harl., et.¹⁸ L. and 16,560, ceo nest; Harl., ceo est, instead of nest pas.¹⁹ T., jeo dirray, instead of ne dirray jeo?²⁰ a is from 16,560 alone.²¹ si is omitted from L. and 16,560.

No. 2.

A.D. 1342. be admitted afterwards to say that your name is different; no more shall your heir; no more shall a successor after the death of his predecessor.—*Thorpe*. He shall; for if my ancestor in tail render by a fine, or lose, by the name of W., when his name is J., and afterwards a *Scire facias* be sued against me, I shall prevent the execution, inasmuch as he had a different name; so in this case.—SHARSHULLE. The entail gives you the advantage in one case, but it does not in the other.—*Thorpe*. But a predecessor shall not prejudice his successor any more than a tenant in tail shall by his acknowledgment prejudice the issue. &c.—SHARSHULLE. You are not in such a case; for you admit that Tickford is in Newport, and so your Priory is in Newport; and one speaks of the Abbot of York because the Abbey is in that town, and also of the Abbot of Our Lady of York; and so also, perhaps, the Prior was called Prior of Newport because his Priory was in Newport.—*R. Thorpe*. If there were two Priories in Newport, one of Our Lady, and the other of St. Peter, and he were to bring his writ against the Prior of Newport, without determining with certainty against which of the two, &c., although he should obtain judgment for himself, yet he would never have execution; for, if so, he would charge both, and that can not be; and the writ is no more good in this case than in the other.—STONORE. If you are not his successor, it does you no harm.—*Pole*. We take your record that no one answers for the Prior of Newport.—*Thorpe*. If it seems to you that the writ is good we are ready to answer.—SHARSHULLE. He can not have any other writ; and therefore see whether you will say

No. 2.

a dire qe vous avez aultre noun, ne vostre heir nient A.D. 1342.
 plus, ne nient plus ¹ fra successour apres la mort son
 predecessour.—*Thorpe*. Si fra; qar si mon auncestre
 en la taille rende par fyne, ou perde, par noun de W., ou
 il ad a noun J., et puis *Scire faciam* soit ² suy vers moy,
 jeo destourberay execucion par taunt qil avoit autre ³
 noun; auxi en ceo cas.—*SCHAR*. La taille vous doune
 lavantage en lun cas, si ne fait pas en lautre.—*Thorpe*.
 Mes nient plus qe tenant en taille par sa conissaunce fra
 prejudice al issue, &c., nient ⁴ plus predecessour a son
 successour.—*SCHAR*. Vous nestes par en tiel cas; qar
 vous grauntez qe Tikeforde est en Neuport, issi vostre
 Priorie en Neuport; et homme appelle Labbe Deverwike,
 [pur ceo qe Labbeye est en ceo ⁵ ville, et auxi de Nostre
 Dame de Everwike]; ⁶ et auxi fut il nome Priour de
 Neuport, par cas, pur ceo qe sa Priorie fuit en Neuport.
 —*R. Thorpe*. Si deux ⁷ Priores ⁸ fussent en Neuport, ⁹
 lune de Notre Dame, lautre de Seint Piere, et il porte
 son bref vers le Priour de Neuport, saunz determiner en
 certain vers qi deux, &c., tout ust ¹⁰ il jugement pur luy,
 ja naverait il execucion; qar si *sic* ¹¹ il chargerait lun et
 lautre, qe ¹² ne poet estre; ne nient plus est le bref bon
 en ceo cas qen lautre.—*STON*. Si vous ne soiez son
 successour, ¹³ ceo vous greve riens.—*Pole*. Nous pernoms
 vos recordes qe nul homme ¹⁴ respond pur le Priour de
 Neuport.—*Thorpe*. Si vous semble qe le bref est bon,
 prest sumes a respondre.—*SCHAR*. Il ne poet aver
 autre bref; et ¹⁵ pur ceo veiez si vous voillez rien ¹⁶ dire en

¹ The words ne nient plus are
 omitted from 25,184.

² 25,184, fuit.

³ 16,560, autri.

⁴ 25,184, et nient.

⁵ 25,114, tiele.

⁶ The words between brackets
 are omitted from T. and L.

⁷ Harl., nostre.

⁸ 16,560, Priours.

⁹ The words en Neuport are
 omitted from 25,184.

¹⁰ ust is omitted from L. and
 16,560.

¹¹ T., eit.

¹² Harl., et.

¹³ Harl., suyte.

¹⁴ homme is from L. alone.

¹⁵ et is omitted from Harl.

¹⁶ T., altre chose, instead of rien.

No. 3.

A.D. 1342. anything to discharge yourself.—*Thorpe*. We tell you that the person against whom the recovery was had was named J., and we are named W., and thus a different person; and we are not by the writ made successor; judgment of the writ.—*Pole*. We pray execution, on the default which is recorded.—This was not allowed; wherefore the writ abated.—The cases above in last Easter Term (*cui in Vita*)¹ and in Trinity Term in the seventh year (Writ of Entry) agree well with this decision.

Right of
advowson.

(3.) § Our Lord the King brought a writ of Right of Advowson in respect of a fourth part of tithes and oblations in the words:—*Præcipe Priori Sancti Johannis Jerusalem in Anglia, et Willelmo de Langeforde, chivaler, quod juste, &c., reddant nobis advocationem quartæ partis decimarum et oblationum ecclesiæ Sancti Dunstani en le West in suburbio Londoniarum*.—And he counted by [W.] *Thorpe*:—This sheweth unto you, &c., our Lord the King, by John Clone, who sues for him, that the Prior of, &c., and William, who are here by attorney, tortiously deforce him of the advowson of a fourth part of the tithes and oblations of the church of St. Dunstan, &c.; and tortiously for this that it is his right and his inheritance, and in respect thereof the Lord Edward,

¹ Y.B., Easter, 16 Edw. III., No. 28.

No. 3.

descharge de vous.¹—*Thorpe*. Nous² vous dioms qe A.D. 1342.
celuy vers qi le recoverir³ se fist avoit a noun J., et nous
sumes nome W., issi autre persone ; et ne sumes pas par
bref fait successour ; jugement du bref.—*Pole*. Nous
prioms execucion sour la defaute qest recorde.—*Non
allocatur* ; par quei le bref abatist.⁴—*Concordat bene ad
istam intentionem supra Paschæ proximo in Cui in
vita, et Trinitatis septimo*, bref dentre, &c.⁵

(3.)⁶ § Nostre seigneur le Roi porta bref de dreit⁷ Dreit⁸
davowesoun, [Fitz..
Quare
impedit,
147.]
davowesoun de la quarte partie des dismes et obla-
ciouns⁹ :—*Præcipe Priori Sancti Johannis Jerusalem
in Anglia, et Willelmo de Langeforde, chivaler, quod
juste, &c., reddant¹⁰ nobis advocacionem quartæ partis
decimarum et oblationum ecclesiæ Sancti Dunstani en
le West in suburbio Londoniarum*.—Et counta, par
Thorpe :—Ceo vous moustre, &c., nostre seigneur le Roi,
par Johan Clone, qe suyst pur luy, qe le Priour, &c. [et
William, qe illoques sount par attorne, atort luy de forcent
lavoweson de la quarte partie des dismes et oblacions],¹¹
del eglise de Seint Dunstan, &c. ; et pur ceo atort qe cest
soun dreit et¹² son heritage, et dount Sire¹³ Edward, jadis

¹ The matter in the report from the second sentence (beginning "*R. Thorpe*") to this point is not represented in the record.

² The words *Thorpe* *Nous* are omitted from T.

³ L. and 16,560, bref.

⁴ According to the record the existing Prior (Fulk Chaumpeneys) pleaded that William Neyrbarbe was Prior when the judgment was given, and that he died before the purchase of the writ of *Scire facias*, in which it was supposed that the existing Prior was the same person as the Prior who was party to the judgment. The Dean and Chapter

confessed the plea, and so the writ abated.

⁵ The last sentence is from 25,184 alone.

⁶ From the five MSS. as above, but compared with the record *Placita de Banco*, 16 Edw. III., R^o. 43.

⁷ The words *de dreit* are omitted from L., 16,560, and Harl.

⁸ L., Bref.

⁹ Harl., obligations.

¹⁰ *reddant* is omitted from L.

¹¹ The words between brackets are omitted from 25,184.

¹² The words *soun dreit et* are omitted from T.

¹³ *Sire* is omitted from 25,184.

No. 3.

A.D. 1342. heretofore King of England, his ancestor, whose heir he is, was seised of the advowson of the entirety of the church as of fee and of right, in time of peace, in his own time, and presented his clerk, one William de Shutlyngdone by name, who on his presentation was admitted and instituted by the Bishop, in time of peace, in his own time, which clerk took the esplees, as in great tithes and small tithes, oblations, obventions, and other kind of issues of a fourth part of the tithes and oblations, amounting to half a mark and more, as in right of the aforesaid church of St. Dunstan. And in respect thereof the right to the entire advowson descended from Edward to our lord the King, who now demands, as to son and heir; and if they will deny this, ready, &c., to aver for our lord the King. — *R. Thorpe* defended, &c., and demanded judgment of the count because he had counted of his ancestor's seisin of the entire advowson, and had alleged the esplees only in respect of a fourth part of the tithes, &c.—This exception was not allowed, because the allegation of the esplees should be according to the demand.—Then he took exception to the count because the descent was made in respect of the entire advowson, and thus was not in accordance with the demand.—[*W.*] *Thorpe*. It was proper to do this, because the fourth part did not descend to him as in gross, but the entirety did.—*SHARSHU'LE*. Both forms are sufficiently good.—*R. Thorpe*. Judgment of the writ, for he demands a fourth part of the tithes and oblations, and this is uncertain, because perchance it may be only the

No. 3.

Roi Dengleterre, son auncestre, qi heir il est, fuit seisi A.D. 1342. del avoweson del eglise entiere come de fee et de dreit, en temps de pees,¹ en son temps demene, et presenta un son clerk, William de Shutlyngdone² par noun, qe a son presentement fuit resceu et institut Devesqe, en temps de pees, en son temps demene, le quel clerk les esplees prist, come en les grosses dismes et menues,³ [oblacions, obvencions, et altre manere dissue de quarte partie des dismes et oblacions,⁴] ⁵ mountaunt a demi mark et puis, com de dreit del eglise Seint Dunstan avantdite; dount de Edward descendi le dreit del avoweson entier a nostre seigneur le Roi, qe ore demande, come a fitz et heir; et sil voillent dedire, prest, &c., daverer pur nostre seigneur le Roi.⁶—*R. Thorpe* defendi, &c., et demanda jugement de counte de ceo qil ad counte de la seisine soun auncestre del avoweson entiere, et ad lie les esplees forsque de la quarte partie des dismes, &c.—*Non allocatur*, qar les esplees lier⁷ serra accordaunt a la demande.—[Puis il challengea le count⁸ de ceo qe la descente fut fait del avoweson entiere, issi desacordaunt a la demande].⁹—*Thorpe*. Il covient ceo faire, qar il ne descendi pus a luy come un gros la quarte partie, mes lentier.—SCH. Lune fourme et lautre est assez bon.—*R. Thorpe*. Jugement du bref, qar il demande la quarte partie des dismes et oblaciouns, quele chose est en noun certeyn,⁹ qar ceo no¹⁰ poet estre fors qe la

¹ The words de pees are omitted from L.

² So in the record; T., Schulwyntone; L. Schulwinton; 16,560 and 25,184, Shulwyngtone; Harl. S.

³ The words et menues are omitted from T. and L.

⁴ The word obvencions is added in T.

⁵ The words between brackets are omitted from Harl.

⁶ The count is, contrary to custom, considerably fuller in the report than in the record.

⁷ 25,184, leir.

⁸ The words le count are from L., and 16,560 alone.

⁹ Harl., un certeyn instead of en noun certeyn.

¹⁰ ne is from L. alone.

No. 3.

A.D. 1342. eighth part of the value of the church, or less or more ; for it is possible that the greater part of the value of the church may consist of rents and demesne, and by law he shall not have a writ for less than for the advowson of a fourth part of the church.—[W.] Thorpe. According to what you say, you would abate the writ even if we had demanded the advowson of two parts of the tithes or of the whole of the tithes, but this you would not do ; but your exception will come by way of answer, according to what the fact is.—R. Thorpe. Judgment of the writ, for he demands advowson of oblations, which is warranted by no law, because by common law there is no writ of Right except for advowson of a church, nor by Statute¹ except for tithes.—[W.] Thorpe. Perhaps the greater part of the value of the church consists in offerings, and *in simili casu simile remedium*, as the Statute² purports ; and your plea is to the action in respect of the oblations.—Pole. Offerings are things made at will, and are not dues, like tithes, which are realty, and to be taken from certain soil ; wherefore neither action nor writ is given to demand advowson of what is thus personalty and at will.—[W.] Thorpe. This writ is brought in London, where the whole value of the church is in offerings, and not in other tithes ; wherefore it would be hard if this writ and action should not be maintained.—STONORE. Will the patron have this writ by law if the parson be not hindered by *Indicavit* from demanding in Court Christian ? (As meaning to say No.)—SHARSHULLE,

¹ 13 Edw. I. (Westm. 2), c. 5. § 4.

² 13 Edw. I. (Westm. 2), c. 24.

No. 3.

utisme¹ partie de la value del eglise² par cas, ou A.D. 1342. meyns ou pluis; qar possible est qe la greyndre³ partie de la value del eglise soit en rentes et demene, et par ley il navera pas bref de meyns qe del avowesoun de la quarte partie del eglise.—*Thorpe*. A vostre dit, vous abaterez le bref⁴ mesqe nous demandassoms lavowesoun de les deux parties des dismes ou de totes les dismes, mes ceo ne ferrez pas; mes vostre challange vendra par voie de respouns solonc ceo qe le fait est.⁵—*R. Thorpe*. Jugement du bref, qar il demande avowesoun des oblacions,⁶ qest garranti par nule ley, qar par comune ley il ny ad bref de dreit forsqe davoweson deglise, ne par statut forsqe de dismes.—*Thorpe*. Par cas la greyndre⁷ partie de la value del eglise est en offrendes, *et in simili casu simile remedium*, ceo voet le statut; et vostre plee est al accion de oblacions.⁸—*Pole*. Offrendes sount choses faitz de volunte et noun pas dues,⁹ come dismes, qe sount reals, et¹⁰ a prendre de certeyn soil; par quei a demander avoweson de ceo qest issint personele,¹¹ et a volunte, accion ne bref nest pas done.—*Thorpe*. Ceo bref est porte en Loundres, ou toute la value del eglise est en offrendes, et noun pas en altres¹² dismes; par quei dure serroit si cestuy bref et accion ne soit meyntenu.—*STONOR*. Avera le patron ceo bref par ley si la persone ne soit destourbe par le *Indicavit* a demander en Court Christiene? *quasi diceret non*.—*SCHAR. ad idem*.¹³ Si

¹ oitisme; 16,560 and Harl., vintisme, L. vintime.

² T., vicarie, instead of value del eglise.

³ L., greyn; 16,560, grengnur; 25,184, graignur; Harl., greinur.

⁴ The words le bref are omitted from 25,184.

⁵ The pleas in abatement of the count, and the first plea in abatement of the writ do not appear in the record.

⁶ Harl., obligacions.

⁷ L., grenour; 16,560, greinour; 25,184, greignour; Harl., greynour.

⁸ Harl., obligacions.

⁹ L., dous.

¹⁰ et is omitted from L. and Harl.

¹¹ T., parle; L. and Harl., parele.

¹² altres is omitted from L.

¹³ The words *ad idem* are omitted from L.

No. 3.

A.D. 1342. *ad idem*. If the oblations amount to a fourth part of the [value of the] church, and the parson by *Indicavit* be hindered from demanding in Court Christian, he will never have Consultation; then it is fit that the patron have his recovery in this Court by this writ, for it is to the advantage of the parson that this writ should be maintained.—*Pole*. At common law there is no writ either for tithes or for oblations, and by Statute the writ is given for tithes only, and by Statute it is supposed that this writ for tithes is given for the patron where the parson is hindered by *Indicavit* from demanding tithes in the next parish; and this can be understood only in respect of real tithes issuing from certain soil; but oblations do not issue from the soil, but are offered voluntarily at the altar. And, according to your proposition, you would maintain a writ of [right of] advowson in respect of a fourth part of obventions, or of mortuaries.—*W. Thorpe*. That is true.—*SHARSHULLE*. It is not so; oblations are as much certain as tithes, and in cities and boroughs shall be paid by reason of residence; and there are not other tithes there.—[*W.*] *Thorpe*. If there is the same mischief with regard to oblations as there is with regard to tithes, and no mischief on the other side, you will maintain the same recovery by the Statute *in consimili casu*, &c., even though express mention of it be not made in the Statute, just as in the case of Ravishment of Ward for a guardian in socage, and in many other cases where there are mischiefs similar to that

No. 3.

les oblacions amountent a la quarte partie del eglise, et A.D. 1342. la persone par le *Indicavit* soit destourbe a demander en Court Christiene, jammes navera il Consultacion; donques covient il qe en ceste Court¹ le patroun eit par cel² bref soun recoverir, qar cest en avantage de la persone qe ceo bref³ soit meyntenu—*Pole*. A la comune ley ny ad nul bref ne de dismes ne de oblacions, et par statut done est⁴ [le bref des dismes soulement, et par statut suppose⁵ qe ceo bref des dismes est done]⁶ pur⁷ le patron ou la persone par le *Indicavit* est destourbe a demander dismes en la procheyne paroche, qe ne poet estre entendu mes de dismes reals issauntz de certain soil; mes oblacions ne sount pas issauntz de soil mes voluntierement⁸ serrount offres⁹ a l'auter.¹⁰ [Et, a vostre entent, vous vodrez meintener bref davoweson de la quarte partie des obventions, ou de mortuaries.—*W. Thorpe, verum est.*]¹¹—SCH. Il nest pas issint; oblacions sount en certain si avant com dismes, et en Cites et en Burghes serrount¹² paies par resoun de resceantie; et altres dismes ne sount illoeqes.—*Thorpe*. Sil¹³ y¹⁴ ad mesme le meschief¹⁵ oblacions come des dismes, et nul meschief¹⁵ de lautre part, vous meyn-teyndrez par statut *in simili*¹⁶ *casu*, &c., mesme¹⁷ le recoverer, tut ne soit pas expresse mencion fait de ceo en lestatut, come en cas de ravissement de garde pur gardein en socage, et en plusours altres cas¹⁸ qe sount

¹ Court is omitted from L.² 25,184, tiel.³ bref is omitted from L.⁴ est is not in Harl.⁵ suppose is from L. and 16,560 only.⁶ The words between brackets are omitted from 25,184 and Harl.⁷ L., par.⁸ L., de voluntiersment.⁹ Harl., assarte; 16,560, offertz.¹⁰ T., al alter; L., a l'autere;

16,560, a l'autier; Harl., a l'autre, instead of a l'auter.

¹¹ The words between brackets are from 25,184 alone.¹² serrount is omitted from L., 16,560, and Harl.¹³ T., L., and Harl., Il.¹⁴ 16,560, ny.¹⁵ L., mescheif.¹⁶ T. alone, *consimili*.¹⁷ T., et mesme; L., and 16,560, mes.¹⁸ L., causes; 25,184, cases.

No. 4.]

A.D. 1342. for which the Statute was made, one maintains a similar recovery.—*Pulteney*. If he had demanded advowson of the tithes only, and had recovered, he would have had oblations and obventions as well as tithes by force of the recovery; then, when he might have obtained his object by a writ in words in accordance with the Statute, it is not right that this writ should be maintained on account of the mischief which he alleges.—SHARSHULLE It seems to some that the writ is good, and to others that it is not.

Account. (4.) Note that Nicholas Gresele sued a writ of Account against certain Lombards; the Exigent issued, returnable now at the Octaves of St. Michael; and the defendants came in Trinity Term last, and surrendered in

No. 4.

semblables meschiefs pur quels lestatut est fait, homme A.D. 1342. meyntient semblable recoverer—*Pult.* Sil ust demande lavowesoun des dismes soulement, et il ust recoveri, il ¹ averoit si avant ² oblacions et obvencions par force del recoverir com les dismes; donques quant par bref sour ³ paroules ⁴ accordauntz al estatut il puit aver eu soun purpos, il nest pas resoun qe ceo bref pur le meschief quel il allegge soit meintenu.—*SCHAR.* Semble a asqun qe le bref est bon, et a altres ⁵ qe noun.⁶

(4)⁷ *Nota* qe Nicholas Gresele ⁸ suist bref dacompte vers certains Lumbardes; ⁹ lexicgende issit, retournable a les utaves Seint Michel a ore; et les defendants vindrent terme de la Trinite darrein, et se ¹⁰ rendirent en Court,¹¹

Acompte.
[*Fits.,*
Discon-
tinuans
divers,
48.]

¹ T., sil.

² avant is omitted from L. and 16,560.

³ T., par.

⁴ L., parils.

⁵ T., asqun.

⁶ In the roll the proceedings following the second plea in abatement of the writ are as follows:—

“Et Johannes qui sequitur, &c.,
“dicit quod, qualitercunque prædictus Prior et Willelmus superius placitant ad breve domini Regis in hoc casu cassandum, placitum tamen ipsorum Prioris et Willelmi prædictum se extendit ad præcludendum ipsum dominum Regem ab actione sua, &c., et dicit ulterius quod, quamvis istud breve expresse non sit datum per statutum, tamen actio ipsius domini Regis fundata est et capta in consimili casu quo remedium per idem Statutum ordinatum est. Unde petit iudicium pro Domino Rege si breve istud manuteneri non debeat, &c.

“Et Prior et Willelmus dicunt
“quod placitum suum prædictum
“se non extendit ad actionem
“domini Regis, immo solummodo
“ad breve prædictum cassandum,
“quia actio domini Regis, si jus
“habeat, in isto casu, ei salvata
“est per breve per Statutum prædictum ordinatum, videlicet petendi advocacionem quartæ partis decimarum tantum, unde petant iudicium, ut prius, si dominus Rex ad hujusmodi breve velit responderi, &c.

“Et quia nondum visum est
“Curiam hic an prædictum breve in
“hoc casu manuteneri possit nec
“ne, dies datus est, &c.”

Several adjournments follow but no decision.

⁷ From the five MSS. as above.

⁸ T., Grisseley; 25,184, Griseley.

⁹ L., certeyn Lombard, instead of certains Lumbardes.

¹⁰ L., ceo.

¹¹ The words en Court are from T. and 25,184 alone.

No. 5.

A.D. 1342. Court, and found mainprise to answer to the party at the Quinzaine of St. John last past, whereas the Exigent was returnable now; and they had a *Supersedeas* to the Sheriff; and now the Sheriff returned the *Supersedeas* and said that he had stayed the Exigent by virtue of the said writ.—HILLARY. The *Supersedeas* is not warranted by that process.—Thorpe. All is discontinued.—HILLARY. No; sue a fresh Exigent.—And he did so.—I think that the plaintiff has the advantage, because all is not discontinued, inasmuch as he had not a day when the *Supersedeas* issued, so that the default was wholly in the Court, and not in him, and for that reason a fresh Exigent issued.

*Jurata
Utrum.*

(5.) The Prioress of the Hospital of Long Stow brought a writ of *Jurata Utrum* against one J., and made her title in that one who was her predecessor was seised in the time of a certain King, as in right of her Hospital, and aliened.—R. Thorpe. Judgment of the writ, for the writ of *Jurata Utrum* by common law is given only for the parson of a church, and by Statute¹ it is given for the Warden of a Hospital, and she not described as either parson or warden; judgment of the writ.—W. Thorpe. This exception is to the action.—R. Thorpe. It is not, because she can have a writ of Right, or a writ of Entry *sine assensu*, &c., if her matter be such, &c.—W. Thorpe. The Statute enures, when the right of a Hospital is aliened, to recover back the right, without having regard to the name by which the Head is described; and she is

¹ 14 Edw. III., St. 1 c. 17.

No. 5.

et troverent meynprise a respondre a la¹ partie a la xv. A.D. 1342. de Saint Johan darrein passe, la ou le exigende fuit a ore retournable; et avoient *Supersedeas* al Vicounte; et ore le Vicounte retourna la *Supersedeas* et dit qil ad sursis del exigende *virtute dicti brevis*.—HILL. Le *Supersedeas* nest pas garranti de ceo proces.—*Thorpe*. Tut est discontinue.—HILL. Nanyl; suiez² novel exigende.—*Et ita fecit*.—*Credo* qe le pleintif ad lavantage, qar tut nest pas discontinue, pur ceo qil navoit pas jour quant le *Supersedeas* issit, issint qe la defaute fuit tut en Court, et noun pas en luy, [par quei novel exigende issit].³

(5)⁴ § La Prioressse del Hospital de Langestowe porta Jure de Utrum. bref de Jure de *Utrum* vers un J., et fist soun tite de ceo qune sa predecessoressse⁵ fut seisi en temps de certain Roi, come del droit de son Hospital, et aliena.—*R. Thorpe*. Jugement du bref, qar le bref⁶ de jure de *Utrum* par comune ley nest done forsque pur persone deglise, et par Statut est done pur gardeyn de Hospital, et ele nest nome ne persone ne gardeyn; jugement du bref.—[*W.*] *Thorpe*. Cest excepcion⁷ est al accion.—*R.*⁸ *Thorpe*. Noun est pas, qar ele poet aver bref de droit, ou bref dentre *sine assensu*, &c., si sa matere soit tiele, &c.—*W. Thorpe*. Statut oevere,⁹ quant le droit dun hospital est aliene, a recoverir le droit arere, saunz aver regarde¹⁰ par quel noun le sovereign est nome; [et

¹ L., 16,560, and 25,184, lour.

² L. suyt.

³ The words between brackets are omitted from 16,560 and Harl.

⁴ From the five MSS. as above, but corrected by the record *Placita de Banco*, Mich. 16 Edw. III., Ro. 77 d. It there appears that the action was brought by the Prioress of Long Stow against William le Gyves, of Eltisley, and that the

alleged alienation was in the reign of Edw. I.

⁵ predecessoressse is from T. alone, the word being abbreviated in the other MSS.

⁶ The words le bref are from L. alone.

⁷ Harl., execution.

⁸ Harl., W.

⁹ T., oeivre; Harl., oeivre.

¹⁰ L., and 16,560, garde.

Nos. 6, 7.

A.D. 1342. called (and the foundation of the house was with that name) Prioress of the Hospital, and she is not called Warden; and I can not call her Prioress and Warden of one and the same place; wherefore, &c.—*R. Thorpe*. This writ is not warranted by any law, &c.

Process in
Account.

(6.) Note that on a writ of Account *Non est inventus* was returned. The defendant appeared by attorney appointed by writ, and prayed that the plaintiff might count against him.—*Rokele*. He can not appear by attorney, because he has not a day, and the *Capias* is awarded against him.—*SHARDELOWE*. If the Sheriff return that he has taken the defendant, then an attorney does not lie for him, because the Sheriff has charged himself with his body; but otherwise an attorney does lie; and therefore count.—And he did so.—Note also where a defendant had a day by the roll, and no writ was returned, in an action of Account, the defendant came to the bar and proffered himself in another plea of Debt, and the plaintiff in the action of Account counted against him; and if he had not answered he would have been undefended.

Note :
Process
against
joint
tenants.

(7.) Note that on a writ brought against a man, and his wife, and their two sons, in a plea of land, they pleaded jointly to the inquest as tenants, and had a day

Nos. 6, 7.

ele est nome],¹ et founde sur cel noun, Prioressse [del A.D. 1342. Hospital, et noun pas nome come gardeyn ; et jeo ne la puisse pas nomer prioressse]² et gardeyn dun mesme lieu ; par quei, &c.—*R. Thorpe*. Cest bref est garranti par nule ley, &c.³

(6) ⁴ § *Nota* qe en bref dacompte *Non est inventus* Proces en⁵ fut retourne. Le defendant apparust par attourne par Acompte. bref, at pria qe le pleintif countast vers luy.—*Rokel*. [Fitz., Attourne, 64.] Par attourne ne poet il estre, qar il nad pas jour, et le *Capias* est agarde⁶ sur luy.—*SCHARD*. Si Vicounte retourne qil ad pris le defendant, la ne gist pas attourne pur luy, pur ceo qil sad⁷ charge de son corps ; mes autrement il fet⁸ ; et pur ceo countes.—*Et ita fecit*.—*Nota* auxi ou partie defendante avoit jour par roule,⁹ et nul bref fut retourne, en bref dacompte, le defendant vynt a la barre et se profri en altre plee de dette, et le pleintif en lacompte counta devers luy ; et¹⁰ sil nust respondu¹¹ il ust este noun defendu.

(7) ⁴ § *Nota* qen bref porte vers un homme, et sa femme, *Nota* : et lour deux fitz, en plee de terre, ils plederent joyntement¹³ a lenquest come tenantz, et avoient jour par *Nisi* Proscs vers joynt tenants.¹²

¹ The words between brackets are omitted from L., 16,560, and Harl.

² The words between brackets are omitted from Harl.

³ According to the record, the plea in abatement of the writ was simply "quod istud breve de Utrum non manuteneatur par statutum, &c., nec per communem legem, &c." The judgment was as follows : "Viso statuto, &c., quæ situm est a præfata Priorissa utrum ipsa sit electiva vel dativa, quæ dicit quod electiva ; et quia per idem statutum hujusmodi breve non conceditur in hujus-

"modi casu, &c., consideratum est quod prædicta Priorissa nihil capiat per breve istud."

⁴ From the five MSS. as above.

⁵ The words *Proces en* are from L. and 16,560 alone.

⁶ T., 16,560 ; and Harl., dagarder.

⁷ L. soit.

⁸ T., face ; Harl., fait.

⁹ 16,560, rouble ; 25,184, roule.

¹⁰ T., qe.

¹¹ Harl., nest rescieu, instead of nust respondu.

¹² The words of the marginal note after *Nota* are from L. alone.

¹³ 25,184, yoyntement.

No. 8.

A.D. 1842. by *Nisi prius* before *W. Thorpe*. And the husband made default, and the two sons came; wherefore the inquest was taken in respect of two parts; and the finding was for the demandant. And now in the Bench the demandant prayed his judgment. The wife prayed advice.—HILLARY. For what purpose? The *Petit Cape* must issue as to the third part, and when that third part is to be lost, on the default of her husband, then she may pray to be admitted; but as to the two parts, they are to be recovered on the verdict of the inquest and are not to be lost by default; and even though this were to be lost by default she could not be admitted except by reason of the default of her husband; unless her husband prayed to be admitted with her.—*Bluik*. Perchance the others have nothing.—HILLARY. When her husband and she have pleaded with them to the inquest as joint tenants, she can not be admitted to say that.—Therefore he awarded seisin of two parts and the *Petit Cape* as to the third part.

Note:
Wardship.

(8.) Note that on a writ of Wardship, at the return of the Proclamation, the defendant did not come; wherefore the plaintiff recovered the wardship, and had a writ to the Sheriff to enquire of the damages, notwithstanding that this is not given by Statute.¹—The contrary above in Hilary Term next preceding.² But note this decision.

¹ 52 Hen. III. (Marlb.) c. 7.,
13 Edw. I. (Westm. 2) c. 35.

² Y. B. H. 16 E. 3, No. 28.

No. 8.

A.D. 1342.

prius devant *W. Thorpe*. Et le baroun fist defaute, et les deux fitz vyndrent; par quei lenqueste en dreit de les deux ¹ parties fuit pris; et trove fuit pur le demandant. Et ore en Baunk le demandaunt pria son jugement. La femme pria conseil ².—HILL. A quei faire? Petit *Cape* covient issir de la terce partie, et quant, sur la defaute son baroun, ceo serra a perdre ³ donques poet ele prier destre resceu; mes quant a deux parties qest a recoverer ⁴ sur verdit denqueste et ⁵ qe nest pas a perdre sur defaute; et tut fut ceo a perdre par defaute ele ne poet estre resceu forsque par defaute de soun baroun, si soun baroun ne priast ⁶ ovesque luy destre resceu.—*Blaik*. Par cas les altres nount ⁷ rien.—HILL. Quant soun baroun et luy ount plede ovesque eux a lenqueste come jointenantz, ⁸ ele ne poet estre resceu a ceo dire.—Par quei il agarda seisine de deux parties et Petit *Cape* de la terce partie.⁹

(8.)¹⁰ § *Nota* qen bref de Garde, a la proclamacion *Nota*:
retourne, le defendant ne vynt pas; par quei le pleintif Garde.
recoveri la garde, et ad bref a Vicounte denquere des [Fitz.,
damages, *non obstante* qe ceo nest pas done par statut.—*Damage*,
*Contra supra Hillarii proximo. Sed nota legem istam.*¹¹ 84.]

¹ L., iij.² T., counceille.³ L. prendre.⁴ Harl., qe sont a resceite, instead of qest a recoverer.⁵ et is omitted from T.⁶ 16,560, purra.⁷ T., ount.⁸ 25,184, yointenantz.⁹ L., lautre, instead of la terce partie.¹⁰ From the five MSS. as above.¹¹ The last sentence is from 25,184 alone.

No. 9.

A.D. 1342. (9.) § Execution was sued in the King's Bench upon a recognisance, and the Sheriff returned that the recognisor was dead. Therefore the ter-tenants were garnished. The garnishment was testified; and they did not come. Execution was awarded; and therefore the person whom the Sheriff testified to have been garnished (to wit, William de Melton) sued a writ of Deceit, supposing that he had not been garnished. The garnishers came, and were examined; and they said that they knew nothing at all; besides, one of them was a villein.—SCOT. This suit is given by Statute, for by common law there is no writ of Deceit in respect of garnishment, and the Statute¹ gives it for a matter affecting freehold, and this is only a chattel; wherefore we will consider the matter. And afterwards the ter-

¹ 2 Edw. III. (Northampton) c. 17.

No. 9.

(9.)¹ § Execucion fut suy en Baunk le Roí hors dune reconisance, issi qe le Vicounte retourna qe le reconisour³ fut mort; par quei terre-tenantz furent garniz, le garnisement tesmoigne, et ils ne vindrent pas. Execucion fut agarde; par quei celui qe le Vicounte tesmoigna destre⁴ garny, [saver William de Meltone]⁵ suist bref de deceite,⁶ supposant qil ne fut pas garni. Les garnisours vindrent et furent examines, qe⁷ disoient qils ne savoient rien de tut; ovesqe ceo, un de eux fut villein. —SCOT. Ceste suite est done par statut, qar par comune ley nyad pas bref de deceite en garnisement, et statut le⁸ doune de chose touchant⁹ fraunctenement, et ceo nest fors qe chatel; pur quei¹⁰ nous voloms aviser.

A.D. 1342.

Execucion:
Desceite.³

¹ From the five MSS. as above, but corrected by the record *Placita coram Rege*, Mich. 16 Edw. III., R^o. 66. It there appears that John son of Robert de Northmilford had entered into a recognisance to John de Ryther for 40*l.* and died. A *Scire facias* issued against his heirs and the ter-tenants of the lands held by him on the day of the execution of the recognisance. The Sheriff returned that the heirs and ter-tenants, the latter being William de Melton and Joan his wife, had been warned, and stated by whom. The heirs and ter-tenants made default, and execution was awarded. Upon subsequent complaint that they had in fact never been warned, a *Venire facias* issued to bring the parties and the two garnishers into Court of King's Bench. The "præmunitores" or garnishers "coram Domino Rege veniunt," et uterque eorum pro se juratus "dicit singillatim per eorum sacra-

"mentum quod nihil sciverunt de
"præmunitione prædicta, nec quod
"prædicti [heirs and ter-tenants]
"unquam per ipsos extiterunt
"præmuniti." Thereupon the ter-tenants against whom execution had been had by *Elegit* "petunt
"breve Vicecomiti ad rehabendum
"terras et tenementa sua prædicta,
"occasione prædicti falsi returni."

² The word execution is from T. alone, the word Desceite from 16,560, and 25,184 alone. In L., the marginal note is Dette.

³ L. and 25,184, conisour.

⁴ Harl., qe estoit instead of destre.

⁵ The words between brackets are omitted from L., 16,560, and Harl.

⁶ L., dette deceite.

⁷ Harl., et.

⁸ T., luy; 25,184, les.

⁹ T., qe touche.

¹⁰ 25,184, de quel, instead of pur quei.

Nos. 10, 11.

A.D. 1343. tenants had the issues of all the land during the meantime.

Note concerning
Trespass.

(10.) § Note that in an action of Trespass in the King's Bench, SCOT abated the writ brought against the Lord of Wake¹ and several others, because one was twice named by different surnames. And this was contrary to law, according to the general opinion.

Note concerning
Trespass.

(11.) § Note that, on a writ of Trespass brought in respect of a trespass committed at Merton in Halsham,² Pole said: Merton is a vill and Halsham also, so one vill is supposed to be in the other; judgment of the writ.—

¹ Probably a mistake, the real name being Robert Therewest. See p. 295, note 2.

² For the real names see p. 295 note 5, and p. 297, note 1.

Nos. 10, 11.

Il pus avoit il par agarde les issues de tote la terre en l A.D. 1342.
mene temps.¹

(10.)² § *Nota* qe en bref de Trespas en Baunk le Roi *Nota de transgression.*
SCOT abatist un bref porte vers [le seigneur de Wake³ et]⁴
plusours, pur ceo qun fuit deux foitz nome par divers
sournouns. *Et fuit contra legem, per communem
opinionem.*

(11.)⁵ § *Nota* qe, en bref de Trespas porte de trespas *Nota de transgression.*
fait *apud Mertone*⁶ *in Halsham*,⁷ Pole: Mertone⁸ est
ville et Halsham⁹ auxi, issint lune ville est suppose en

¹ The last sentence is from 25,184 alone. According to the record the recognissee, John de Ryther made default on the day given to hear judgment. "Et super hoc prædicti Willelmus et Johanna petunt iudicium super deceptione et falsitate prædictis. Et, inspectis recorde et processu prædictis, consideratum est quod prædicti Willelmus et Johanna re-habeant tenementa sua prædicta, una cum exitibus inde medio tempore perceptis, &c. Et prædictus Johannes de Ryther pro deceptione et falsitate prædictis capiatur, &c."

² From the five MSS. as above. There is a record of a case in which the Abbot of Croyland proceeded against John Drynkewater and several others, and in which the writ was abated because "ubi prædictus Abbas tulit breve suum prædictum versus Robertum Therewest de Bergham et Robertum filium Roberti de Bergham, supponendo per breve

"illud ipsos esse duas personas, ipsi sunt una et eadem persona." *Placita coram Rege*, Mich. 16 Edw. III., R^o. 40.

³ 25,184, Waste.

⁴ The words between brackets are omitted from L. and Harl.

⁵ From the five MSS. as above, but corrected by the record *Placita de Banco*, Mich. 16 Edw. III. R^o. 194. It there appears that the action was brought by William de Morton, clerk, against John son of John de Morton, in respect of a trespass committed at Moreton-in-Gnossale (Moreton in Gnossall, Staffordshire), where, as alleged, the defendant with others took and imprisoned the plaintiff, and carried him thence as a prisoner to Lilleshall (Salop) and detained him until he made a fine with them of 40*l*.

⁶ L., Burtone; Harl., Birtone.

⁷ T., Halcham; 25,184, Hasham.

⁸ L., and Harl., Burtone.

⁹ T., Halcham; H. Hasham; 25,184, Assham.

• No. 12.

A.D. 1342. *Thorpe.* Merton is not a vill, but a place in the vill of H.—*Pole.* Merton is a vill, ready, &c.—And the other side said the contrary.—And note that it was said that, if Merton were a hamlet of H., the writ would be good.

Annuity. (12.) § A writ of Annuity was brought against the Prior of Bisham, and the plaintiff counted that this same Prior, by the name of Thomas de B., Prior of Bisham, with the assent of his Convent, bound, &c., and he made *profert* of a specialty in accordance with the count.—*Pole.* The count is not warranted by the writ, for the words of the writ are only *Priori, &c.*, and he has counted that this Prior, by the name of Thomas de B., Prior, &c., and, thus there is a variance.—*R. Thorpe.* This is not a variance, for I have counted according to the words of the writ, and something more in order to be in accordance with the specialty; and I could not have a writ in accordance with the specialty; and when I said that this same Prior bound himself, the person who was bound cannot be understood to be any other person than he who is named in the writ; for it is

No. 12.

lautre; jugement du bref.¹—*Thorpe*. Mertone² nest pas A.D. 1342. ville, mes un lieu en la ville de H.³—*Pole*. Mertone⁴ est ville; prest, &c.—*El alii e contra*.—Et nota qe fut dit qe, si Mertone⁴ fut hamel de H.,⁵ le bref serreit bon.

(12.)⁶ § Bref dannuyte⁶ porte vers le Priour de Annuite. Bristolham,⁷ et counta qe mesme cesti Priour, par noun de Thomas de B., Priour de B.,⁸ del assent son Covent, obligea, &c.; et mist avant especialte acordaunt al counte.—*Pole*. Le counte nest pas garrantie de bref, qar le bref voet forsqe *Priori*, &c., et il ad counte qe cesty Priour par noun de Thomas de B., Priour, &c., et issi variaunt.—*R. Thorpe*. Variaunt nest ceo pas, qar jay counte solon ceo qe le bref voet, et plus pur acorder al especialte; et jeo ne poay⁹ aver bref acordaunt al especialte; et quant jay dit qe mesme cesty Priour sobligea, il ne poet estre entendu altre [persone¹⁰ celui qe fut oblige¹¹ qe cesty qest¹² nome el bref; qar il

¹ According to the record the plea was that whereas the plaintiff supposed the trespass to have been at Moreton-in-Gnosall, "supponendo Mortone esse in Gnousale, "Mortone est quedam villa per se, "et Gnousale quedam alia villa per se, et sic una illarum in alia esse non potest." The replication was "quod in prædicto comitatu Salopiæ habentur plures villæ quæ vocantur Mortone cum adjectionibus, videlicet Moreton Corbet, Moreton [blank], et dicit quod habetur Mortone in Gnousale quæ non est villa per se, sicut prædictus Johannes superius allegavit, immo est quidam hamelettus de Gnousale et sic in Gnousale." On this issue was joined.

² L. and Harl., B.

³ T., Halcham; 25,184, A.

⁴ T., Halcham.

⁵ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 132. It there appears that the action was brought by Walter Wyvill, clerk, by a Wiltshire writ, against the Prior of Bustlesham (Bisham, Berks) in respect of an annuity or annual pension of 40l.

⁶ All the MSS. except L., Annuite instead of Bref dannuyte.

⁷ L., Bristilham; 16,560, Brystylgham; 25,184, Bristeleham; Harl., Bristugham.

⁸ 25,184, G.

⁹ 16,560 and Harl., poy.

¹⁰ persone is omitted from L.; Harl., persone qe.

¹¹ T., fist loblacion, instead of fut oblige.

¹² T., qe nest.

No. 12.

A.D. 1342. not the fact, in relation to a Prior or an Abbot, that he could be understood to be a person other than the person who is named, as it would be in relation to another common person.—*Pole*. You could have a good writ in the words *Præcipe Thomæ Priori, &c.*, and so in accordance with the specialty.—*SHARSHULLE*. We hold the writ to be good ; therefore answer.—*Pole*. You see plainly how he demands this annuity, for the term of his life, in virtue of a specialty which supposes that it is to be taken from Bisham ; and that sounds in freehold ; and Bisham which is charged is in Berkshire, and the writ is directed to the Sheriff of Wiltshire ; judgment of the writ.—*SHARSHULLE*. If he were to bring an assise by Statute,¹ he ought to bring it where the freehold charged is ; but this writ which charges the person, which ran according to common law where the party could best be brought to answer, is good ; wherefore answer.—Then he showed the King's charter of confirmation of the foundation of their Priory, reciting the charter of the founder, which charter is of later date than this obligation, so that (said *Pole*) it can not be understood that there was any Prior at the time when you suppose this deed to have been made.—This exception was not allowed.—*Pole*. We tell you that, before there was a Prior or a Priory, the Earl of Salisbury, who is founder of the House, appointed one Master John of Salisbury to be ruler of the House of the Priory and other necessities, and he executed this deed and sealed it with the seal which is now the Common Seal of the House, and thus it is not the deed of the Prior and the Convent ; and we pray that our plea may be entered.—*Derworthy*. That which you say is only a traverse to our count, because it is

¹ 13 Edw. I. (Westm. 2), c. 25.

No. 12.

nest pas de Priour ou de Abbe qe purreit estre entendu A.D. 1342. altre]¹ qe celui qest nome come serroit daltre comune persone.—*Pole.* Vous puissez avoir bon bref *Præcipe Thomæ Priori, &c.*, et issi acordaunt al especialte.—*SCHAR.* Nous tenoms le bref bon; par quei responez.—*Pole.* Vous veiez bien coment il demande ceste annuite, pur terme de sa vie, par especialte qe suppose qe cest a prendre de Bristoleham,² qe soune en fraunc tenement; et B. qest charge est en Berkescire,³ et le bref est directe al Vicounte de Wiltescire; jugement du bref.—*SCHAR.* Sil portast assise par statut, il coviendreit porter ou le fraunc tenement charge⁴ est; mes cesty bref qe charge la persone qe corust par comune ley ou la partie purreit meutz estre mene en respons, est⁵ bon;⁶ par quei responez.—Puis il moustra chartre le Roi de conferment de lour⁷ foundation de la Priorie, recitaunt la chartre le foundour, quele chartre est de puisne date qe ceste obligacion,⁸ issi ne poet estre entendu qe Priour y avoit quant vous supposez ceo fait estre fait.—*Non allocatur.*—*Pole.* Nous vous dioms qe, devant qil y avoit Priour ou Priorie, le Counte de Salisbirs,⁹ qest foundour de la mesoun, ordeyna¹⁰ un Mestre Johan de Salisbirs¹⁰ destre ordeynour¹¹ de mesoun de la Priorie et altres necessaries, et il fist ceo fait et lenseala del seal qest ore le comune seal de la mesoun, et issi nest ceo pas le fait le Priour et le Covent; et prioms qe nostre plee soit entre.—*Derworthi.* Ceo qe vous parlez nest forsque travers a nostre counte, qar taunt amounte qe nient

¹ The words between brackets are omitted from 25,184.

² T., Briteleham; L., Bristilham; 16,560, Brystylgham; Harl., Bristugham.

³ T., Briteleham.

⁴ L., Berkelay.

⁵ charge is omitted from L.

⁶ L. and 16,560, estre.

⁷ 25,184, sovent view.

⁸ 16,560 and Harl., la.

⁹ obligacion is omitted from L., 16,560, and Harl.

¹⁰ 16,560, Salesbirs; Harl., Salusbris.

¹¹ 16,560, ordena; Harl., ordeigna.

¹² 16,560, Ordenour; 25,184, Ordeynour; Harl., Ordeignour.

No. 13.

A.D. 1342. tantamount to saying that is not your deed ; for the law does not put us to answer your statement that it is the deed of another.—*Thorpe*. We fully admit that it is sealed with that which is now our Common Seal ; wherefore our statement shall be entered. And when the Abbot of Bindon¹ was party to an obligation as we are, he pleaded that the person who executed the deed was Abbot and apostatised, so that in that case it was not the deed of the Abbot and Convent, and that plea was entered.—*STONORE*. The case is not similar ; for each claimed to be Abbot in that case ; not so here. —And afterwards *Thorpe*, contrary to the opinion, accepted the averment in general terms (and his statement was not entered) that it was his deed ; ready, &c. —And the other side said the contrary.—And note that they had a Bill of Exceptions from *STONORE* on their exception.

*Quare
impedit for
the King.*

(13.) § The King brought a *Quare impedit* against the Prior of Deerhurst, and another writ [of *Quare impedit*] against Roger Basset, in respect of the church of Little Compton. And he counted how the Prior was seised of the advowson and presented, &c., and how on

¹ The case to which reference is made is apparently Y.B. Hil. 10 E. III. No. 31, fo. 11.

No. 13.

vostre fait ; qar [ley ne nous mette a respondre]¹ a ceo A.D. 1342. qe vous dites qe ceo est altri fait.—*Thorpe*. Nous conissons bien qe cest enseale de ceo qest ore nostre comune seal ; par quei nostre dit serra entre. Et ou Labbe de Binunatone² fuit partie a une obligacion come nous sumes, il pleda qe celui qe fist le fait fut Abbe et se mist en apostasie, issi qe en cel cas ceo ne³ fut pas fait Dabbe et Covent, et ceo fuit entre.—*STON*.⁴ *Non est simile* ; qar lun et lautre clama estre Abbe la ; *non sic hic*.—Et puis *Thorpe*, *contra opinionem*, resceut generalment laverement, et son dit nest pas entre qe ceo fuit soun fait ; prest, &c.—*Et alii e contra*.⁵—*Et nota* qil ount bille de *STON*. de lour chalange, &c.⁶

(13.)⁷ § Le Roi porta *Quare impedit* vers le Priour de Derhurst,⁸ et altre bref vers Roger¹⁰ Basset, del eglise de Petit Comptone. Et counta coment le Priour fut seisi del avoweson et presenta, &c., et coment certain jour¹¹

Quare impedit pur le Roy.⁹

¹ The words between brackets are omitted from 16,560, 25,184, and Harl.

² T., Benygtone ; 16,560, Benygtone ; 25,184, Bemyngtone.

³ 16,560, com, instead of ceo ne.

⁴ Harl., *Setone*.

⁵ The words *Et alii e contra* are omitted from T. The plea is, on the roll, only in the usual form, "Non est factum ipsius Prioris et Conventus." After issue was joined thereon, the *Venire* was sent to the Sheriff of Berkshire.

⁶ The last sentence is from T. and 25,184 alone.

⁷ From the five MSS. as above. The action against Ralph, Prior of Deerhurst, appears among the *Placita de Banco*, Mich. 16 Edw. III., R^o 41, and that against Roger Basset, R^o 43d. According to the declaration, which is practically the

same in both actions, the Prior's predecessor, John, was seized of the advowson of Little Compton (Gloucestershire) and presented Bartholomew Fitz-Waryn. Ralph being an alien, "et de potestate illorum de Francia," the King seized the temporalities by reason of the war with France, but, with the assent of his Council, restored them to the Prior for a certain sum of money, to be paid annually. The restitution was subsequently revoked by judgment of the Parliament held at the Quinsaine of Easter, 15 Edward III., after which time the church became void by Fitz-Waryn's death.

⁸ The words pur le Roy are from 25,184 alone.

⁹ Harl., Berhulle.

¹⁰ L., 16,560, and 25,184, Rauf.

¹¹ L., jour et lieu.

No. 13.

A.D. 1342. a certain day, and in a certain year, by reason of the war between the French and the King, the temporalities of the Priory were seized into the King's hand, and that afterwards full restitution was made to the Prior at a certain time, rendering to the King something certain ; and then afterwards by Common Council [of the Realm], on a certain day, and in a certain year, that restitution was repealed, wherefore the King re-seized ; and after that repeal the church became vacant ; thus the King is seised, and it belongs to him to present, &c.—*Pole*. The King takes by his declaration different times for his right to present, one generally from all time since the first seizure of the temporalities, another since the repeal was made ; thus it is uncertain.—This exception was not allowed.—*Pole* made *profert* of the King's Patent, whereby the King made restitution to the Prior of the fees and advowsons, &c. ; and he demanded judgment, since the King's declaration supposes that the fees and advowsons always remained to the King after the first seizure ; for, although he has counted of a restitution, they have said "rendering to the King something certain," in which case the Prior was only the King's farmer, and the fees and advowsons remained to the King if he did not divest himself of them by express words, and thus the Patent proves the reverse of their declaration ; judgment.—*SHARDELOWE*. The King takes his action from a certain time, that is to say, after the repeal, to which you answer nothing.—*Pole*. He does not ; for if I desired to traverse by saying that the church did not become vacant since the repeal, he would, for the King, take against me the point that I had not denied that the advowson was always previously in the King's hand, according to that which his count supposes, and because I had not answered in respect of that time

No. 13.

et an, par cause de la guerre entre ceux de Fraunce et le A.D. 1342.
 Roi, les temporaltes de la Priorie furent¹ seisis en la
 mayn le Roi, et qe puis apres plein restitution fut fait
 al Priour a certain temps,² rendaunt au Roy un certain;
 et puis apres par Comune Counseil, certain jour et an,
 cele³ restitution fut repelle, par quei le Roi reseisi,⁴ puis
 quele repelle leglise se voida; issi est le Roi seisi, et
 a luy appent a presenter, &c.—*Pole.* Le Roi prent par
 sa demoustrance⁵ divers temps de presenter, un general-
 ment de tut temps puis la primere seisine des tem-
 poraltes, un altre puis le repelle fait, issint en noun
 certeyn.—*Non allocatur.*—*Pole* mist avant patent le
 Roi, par quel le Roi fist restitution al Priour des fees et
 avowesons, &c., et demanda⁶ jugement, del houre qe la
 monstraunce le Roi suppose qe fees et avowesons tut
 temps demorerent⁷ au Roi puis la primere seisine; qar,
 tut eit il counte dune restitution, il ount dit rendaunt un
 Roi un certeyn, en quel cas le Prior ne fut forsqe fermer
 le Roi, et fees et avowesons demurerent au Roi sil ne se
 ust demis par paroule expresse, et issi prove la patente
 le revers de lour demoustraunce;⁸ jugement.—*SCHARD.*
 Le Roi prent saccion de certain temps, saver⁹ puis le
 repelle, [a quei vous ne responez riens.—*Pole.* Noun
 fait pas; qar si jeo voudrai¹⁰ traverser qe leglise se voida
 pas puis le repelle],¹¹ il prendreit, pur le Roi, countre moy
 qe jeo navoi pas dedit qe lavoweson ne fut de tut temps
 devant en la mayn la Roi, solonc ceo qe soun counte
 suppose, et de ceo qe jeo nusse pas respondu de cel

¹ furent is omitted from Harl.² temps is omitted from L.³ cele is omitted from L.⁴ L., recesser.⁵ L., 16,560, and Harl., mou-
strance.⁶ 16,560 and 25,184, deman-
doms.⁷ L., demourront.⁸ L., 16,560, 25,184, and Harl.,
moustrance.⁹ saver is omitted from L. and
Harl.¹⁰ Harl., ceo vendra, instead of
jeo voudrai.¹¹ The words between brackets
are omitted from L.

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A.D. 1342. he would abide judgment.—SHARDELOWE. The Patent proves a part of his count, for he has said that full restitution was made, and that could be only of fees and advowsons, &c.—*Pole*. As to the Prior, we tell you that the church has not been vacant since the repeal; ready, &c. And as to Roger, we tell you that after the restitution was made, as above, the Prior leased the manor of Compton, to which the advowson is appendant, with the appurtenances, for a term of years, which term is still subsisting, and he is seised, &c., still, so that this repeal, as to the temporalities of the Prior, can not extend to that of which Roger was previously possessed, and then was and still is possessed; and we demand judgment, &c., whether the King, by reason of that repeal, can maintain his title against Roger.—*Thorpe* made *profert* of the King's Patent, witnessing that the King had repealed the restitution, and had re-seized into his hand the temporalities of the Priory, with all things appendant, as fully as they were seized at the beginning of the war; and then he showed further a Patent whereby the King leased them entirely to the Prior to farm, rendering to the King such a sum as the Prior rendered at the time of the first lease to farm when they were first seized; and Roger himself is now one of the mainpernors in respect of the farm, as the Patent records; and we demand judgment, since the rest of the King's title is not denied; and he shall not be

No. 13.

temps il demureit en jugement.—SCHAR. La patente A.D. 1342.
 prove parcelle de soun counte,¹ qar il ad parle qe plein
 restitution fut fait, qe ne poet estre forsque de fees et
 avowesons, &c.—*Pole.* Quant al Priour, vous dioms qe
 leglise ne fut pas voide² puis le repelle;³ prest, &c.⁴ Et
 quant a Roger,⁵ vous dioms qe apres⁶ la restitution fait, *ut*
supra, le Priour lessa le maner de C., a quei lavoweson
 est appendaunt, ove les appurtenances, a terme des aunz,
 quele terme dure unquore, et il est⁷ seisi [&c., unquore,⁸
 issi]⁹ qe cele repelle des temporaltes le Priour ne se poet
 estendre a ceo dount Roger estoit possesse¹⁰ devant ei a-
 donques fut et unquore est; et demandoms jugement,
 &c., si le Roi par cause de cele repelle puisse soun title
 vers luy mayntener.¹¹—*Thorpe*¹² mist avant patent le
 Roi tesmoignant qe le Roi avoit repelle la restitution,
 et reseisi en sa mayn les temporaltes la Priorie, ove totes
 choses appendauntz, auxi plenerement come eles furent
 al comencement de la guerre seisi; et puis moustra outre
 patent par quel le Roi les ad lesse entierement a ferme
 al Priour, rendaunt au Roi autiel somme come le Priour
 rendist a temps del primer lees a ferme quant ils furent
 primes seisis, et Roger¹³ mesme un des maynpernours ore
 de la ferme come la patent recorde; et demandoms
 jugement, del heure qe le remenant del title le Roi nest

¹ bon is here inserted in T.² L., fut vendu, instead of ne fut pas voide.³ 25,184, relees.⁴ In the record this plea (with a protestation as to the revocation, and as to the Church having been void after the first taking into the King's hand) immediately follows the declaration, in the case against the Prior.⁵ T., L., 16,560, and 25,184, Rauf.⁶ apres is omitted from L.⁷ L., ust.⁸ unquore is omitted from 25,184.⁹ The words between brackets are omitted from L., 16,560, and Harl.¹⁰ L., and 16,560, possessione; 25,184, possessue.¹¹ This is the plea in the case against Roger Basset, but somewhat abridged, as compared with the record.¹² Harl., R. Thorpe.¹³ 16,560 and 25,184, Rauf.

No. 13.

A.D. 1242. admitted to deny that this was seized, contrary to this matter of record ; judgment, and we pray a writ to the Bishop. And as to the Prior, we tell you that this same Roger Basset, in last Hilary term, brought a *Quare impedit* against this same Prior, and made for himself a like title in right of the Priory as the King now does, and on the same vacancy, and claimed by a lease made by the Prior to him, &c. ; and then the Prior came and could not deny it, and therefore Roger had a writ to the Bishop ; and since, in a plea between himself and Roger, he has admitted the vacancy at a later time, judgment whether you shall be admitted to say the reverse.—*Pole*. We do not admit that there is such record ; but even if there be such a record, that does not prove that anything was admitted but the title of the parties, to wit, that it then belonged to the plaintiff to present, so that the vacancy could not then have fallen into dispute, for the allegation of plenarty is not a plea except in the mouth of the patron, and the Prior could not have claimed it contrary to his demise ; wherefore that which he could not then have denied can not be held as not denied. And if plea on a *Quare impedit* be pending three years, and then the defendant come and can not deny that it belongs to the plaintiff to present, whereas perchance by the Bishop's collation, or in some other way, the church is full, the non-denial by the party does not prove the vacancy ; nor does it here.—SHARDELOWE.

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pas dedit ; et ¹ a dedire ² qe ceo ne fuit pas seisi, countre A.D. 1848. ceste chose de recorde, ne ³ serra il pas ⁴ resceu ; jugement, et prioms bref al Evesqe. ⁵ Et quant al Priour nous vous dioms qe mesme cesty Roger ⁶ Basset, le terme de Saint Hillari darrein, porta *Quare impedit* vers mesme cesty Priour, [et se fist autiel title en le dreit de la Priorie come le Roi se fait ore, et] ⁷ de mesme ceste voidaunce, et clama dun lees fait par le Priour a luy, &c., ou le Priour vynt et ne pout dedire, par quei Roger ⁶ avoit bref a Levesqe ; et del ⁸ heure qe de puisne temps il ad conu la voidaunce par plee entre luy et Roger, ⁹ jugement si a dire le revers serrez resceu. ⁹—*Pole*. Nous conissoms pas qil y ad tiel ¹⁰ recorde ; mes mesqe tiel recorde y soit, ceo ne prove pas qe altre chose fut conu forsqe title de partie, saver qal pleyntif adonques appent a presenter, issi qe la voidaunce ne poet adonques aver chieu en debat, qar plenerete allegger nest pas plee forsqe en bouche de patron, et ceo ne poet le Priour aver clame countre sa demyse ; par quei ceo qil ne pout adonques aver dedit ne poet estre tenu nyent dedit. Et si plee sur *Quare impedit* pent trois aunz, et puis le defendant vient et ne poet dedire qe al pleyntif nappent a presenter, la ou par cas par collacion ¹¹ de Evesqe ou en altre manere leglise est pleyne, le nient dedire de partie ne prove pas voidaunce, *neque hic*. ¹²—SCHARD. Homme

¹ T., si.² T., dire.³ ne is omitted from T.⁴ pas is omitted from T.⁵ This is the replication in the case against Roger Basset, though considerably abridged, as compared with the record.⁶ 16,560 and 25,184, Rauf.⁷ The words between brackets are omitted from Harl.⁸ Harl., dul.⁹ This replication by way of

estoppel, in the case against the Prior, is also considerably abridged, as compared with the record.

¹⁰ Harl., eye.¹¹ T., collusion ; 16,560, collocacion.¹² The pleading on behalf of the Prior at this stage appears thus on the roll : " Quod quamvis in eodem recordo continetur quod ipse non potuit dedicere quin predictum scriptum fuit factum suum nec quin ad ipsum Rogerum perti-

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A.D. 1342. One can not have an action to present except upon a vacancy, and that is part of his count and of his declaration; then, when you can not deny his action, it is understood that the points which give him an action are held as not denied; and though one might have divested himself of the patronage since his presentation, still he could allege plenarty in virtue of his own presentation; and therefore it seems that, in opposition to your admission, you shall not have the averment.—And so to judgment, &c.—And as to Roger Basset, *Pole* said: We tell you that the Prior leased the manor of Compton, to which the advowson, &c., to Roger, rendering £10 by the year, whereof the King is seised, so that he cannot have the gross of the manor and the farm besides; and also the Prior leased as much as he could legally lease, for full restitution was made to him, and Roger has never since been ousted by any process; and if Roger then presented, thereby he committed no tort; and therefore we demand judgment, for

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ne poet aver accion de presenter forsque sur voidaunce, et A.D. 1342.
cest parcel de soun counte et sa demoustraunce¹;
donques, quant vous ne poiastes dedire saccion, cest
entendu qe² les pointz qe luy dounent³ accion sont⁴
tenuz nient dedit; et tut se⁵ ust homme demys de
patronage puis soun presentement, unquore purreit il
allegger plenerete de soun presentement demene; par
quei il semble qe, countre⁶ vostre conissaunce, vous
naverez pas laverement.—*Et sic ad iudicium*, &c.—Et
quant a Roger⁷ Basset, *Pole*⁸: Nous vous dioms qe le
Priour lessa le maner de C., a quei lavoweson, &c., a R.,
rendaunt par an xli., de quei le Roi est seisi, issi qil ne
poet aver le gros dun maner et la ferme ovesqe; et auxi
le Priour lessa quant qil poet de ley lesser, qar pleyne
restitution luy fuit fait, et Roger⁷ unques par nul proces
ouste puis; et si Roger⁹ adonques presenta, en cel il
fit nul tort; par quei nous demandoms jugement, qar le

"nuit præsentrare, cum tamen
"bene stat et esse potest quod
"ecclesia illa non fuit vacans, &c.,
"ex quo non continetur in eodem
"recordo per aliqua verba expressa
"quod idem Prior cognovit quod
"prædicta ecclesia fuit vacans, &c.,
"petit iudicium si ad verificati-
"onem prædictam admitti non
"debeat," &c.

In the roll there is a further
pleading on behalf of the King
against the Prior, as follows:—

"Quod cum prædictus Rogerus in
"narratione sua expresse suppo-
"suit ecclesiam prædictam tunc
"fore vacantem, &c., et prædictus
"Prior in respondendo nullam
"protestationem fecit, &c., immo
"præcise placitavit quod non po-
"tuit dedicere quia ad ipsum Ro-
"gerum pertinuit ad prædictam
"ecclesiam præsentare, prout ipse

"per narrationem suam supposuit,
"in quo casu aliud de jure intelligi
"non potest nisi quod tota narratio
"ipsius Rogeri ab ipso Priore cog-
"nita fuit, et sic dicit quod, quam-
"vis ecclesia prædicta tunc fuit
"vacans vel non vacans, idem Prior,
"contra cognitionem prædictam,
"ad verificandum quod ecclesia
"illa non fuit vacans admitti non
"debet, unde petit iudicium pro
"domino Rege," &c.

¹ All the MSS. except T., mou-
strance.

² T. and 16,560, par quei.

³ Harl., deyvent.

⁴ 16,560, fut; 25,184, fuit.

⁵ 16,560, 25,184, and Harl., ceo.

⁶ Harl., conust.

⁷ 16,560 and 25,184, Rauf.

⁸ *Pole* is omitted from Harl.

⁹ 16,560, Rauf; 25,184, R.

. No. 18.

A.D. 1342. the repeal of a later date (if there was any such, which we do not admit), was only by way of assent, that the King might assess the aliens at a certain rent to be paid to him, and he could not thereby defeat the right which had accrued to Roger.—*Thorpe*. He has not denied the King's title, and we shew by record that the King repealed the restitution as fully as when the first seizing was effected, and that he re-seized as fully, &c. And also we shew by record that still in the same manner the advowson, &c., remained in the King's hand; wherefore we demand judgment.—*KELSHULLE*. As to the Prior, the Court holds that he has sufficiently admitted the vacancy by the plea which was between Roger and him; wherefore, as to him, sue a writ to the Bishop for the King; and also, as to Roger, sue a writ for the King.

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repelle de puisne temps, si tiel y feut, qe nous ne A.D. 1842.
 conissons pas, ceo¹ ne fut forse un assent, qe le Roi
 purroit² asseer³ les aliens a certeyn, rendaunt a luy, et⁴
 il ne purreit defaire le dreit acru a Roger⁵ par taunt.⁶—
Thorpe. Il nad pas dedit le tittle le Roi, et nous
 moustroms de recorde qe le Roi repella la restitution
 si pleynement come ceo fut primes seisi, et qil reseisi
 si pleynement, &c. Et auxi de recorde moustroms qe
 unqore par mesme la manere demurerent en la mayn le
 Roi;⁷ par quei nous demandoms jugement.⁸—*KELS*.
 Quant al Priour, Court tient qil ad conu assetz la
 voidaunce par plee qe fut entre Roger et luy; par quei
 quant a luy suez bref al Evesqe pur le Roi;⁹ et auxi
 quant a Roger suez bref pur le Roi.¹⁰

¹ Harl., qar ceo.

² 16,560 and Harl., prist.

³ T., affere; Harl., a foer.

⁴ et is from Harl. alone.

⁵ 16,560 and 25,184, Rauf.

⁶ The words par taunt are from T. alone. The whole of this speech by *Pole* partly reproduces his plea in the case against Basset, as above, but it is not otherwise represented on the roll.

⁷ The words le Roi are omitted from Harl.

⁸ This speech by *Thorpe*, which partly reproduces his replication in the case against Basset, is not otherwise represented on the roll.

⁹ The reason for the judgment in the case against the Prior, is thus stated on the roll:—"Quia videtur
 " Curie hic quod verificatio quam
 " prædictus Prior prætendit non est
 " admittenda, nec idem Prior ali-
 " quid aliud respondet ad demon-
 " strationem domini Regis."

¹⁰ The reasons for the judgment in the case against Basset are thus stated on the roll:—"Quia per
 " prædictas literas domini Regis
 " patentes, quæ sunt de recordo,
 " satis liquet Curie hic quod præ-
 " dicta restitutio omnino revocata
 " fuit, et quod omnes possessiones,
 " feoda, et advocaciones, ad prædic-
 " tum Prioratum spectantia, integre
 " resumpta fuerunt in manum ip-
 " sius domini Regis, &c., et quod
 " idem dominus Rex postea dimisit
 " easdem possessiones, salvo feodis
 " militum et advocacionibus eccle-
 " siarum, &c., prædicto Radulfo de
 " Ermenovilla nunc Priori, &c., in
 " forma prædicta, per quod aliud
 " intelligi non potest quam quod
 " advocatio prædicta semper post
 " resumptionem prædictam in manu
 " ipsius Regis extitit et adhuc ex-
 " istat, et prædictus Rogerus non
 " dedit prædictam ecclesiam fore
 " vacantem post resumptionem
 " illam."

No. 14.

A.D. 1342. (14.) § Richard, Earl of Arundel, brought an Assise of Novel Disseisin against John de Cherleton and Hawise his wife, and others, before Justices in the country, where they pleaded in bar of the assise by reason that one Griffin ap Wenonwyn, grandfather of the lady, whose heir she is, was seised, and died seised, in his demesne as of fee, &c., after whose death her husband and she were seised as in right of the lady. And one Griffin de la Pole, making his suggestion to the King that he had been disseised of the same tenements by John de Cherleton, had a writ to certain Justices to enquire of his right. An inquisition was taken, and it was found that he had been disseised, according to the purport of his suggestion. And then again by commission the same matter was enquired of and found; wherefore it was adjudged that Griffin de la Pole should recover seisin and his damages, assessed at four¹ marks. And then John sued process in the Chancery, and thence into the King's Bench, and sued a garnishment against Griffin to hear the record. And Griffin came, and, the errors being assigned, &c., it was adjudged that the judgment should be annulled and reversed, and that John should be restored to his possession. And the estate of Richard the Earl, who now complains, was mesne between the *Scire facias* brought

¹ Four thousand, according to the record.

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(14.)¹ § Richard, Counte Darundel, porta assise de A.D. 1342.
 novele disseisine vers Johan² Charletone³ et Hawise sa Assisa
 femme, &c., devant Justices en pays, ou⁴ il plederent en Nova disseisine.
 barre dassise par la resoun qun Griffin ap Wenonwyn⁵ [16 Li.
 aiel la dame, qi heir ele est, fut seisi et morust⁶ seisi en Ass., 16.]
 soun demene come de fee, &c., apres qi mort soun baroun
 et luy furent seisz come del droit la dame. Et un
 Griffin⁷ de la Pole, fesaunt sa suggestion au Roi qil fut
 disseisi de nesmes les tenementz par Johan⁸ Charle-
 tone⁹ avoit bref a certainz Justices denquere de soun
 droit. Enqueste pris, trove fut qil fut¹⁰ disseisi solonc
 purport de sa suggestion. Et puis altrefoit par com-
 mission mesme la chose enquis et trove; par quei agarde
 fut qe Griffin⁷ recovereit, et ses damages taxes a iiij
 marcz. Et puis Johan suist le proces en Chauncellerie,
 et de illoques en Baunk le Roi, et suist garnisement
 devers G. doier le record, qe vynt, et, les erreurs assignes,
 &c., agarde fut qe le jugement fut anully et reverse, et
 Johan restitut a sa possession, &c. Et lestat Richard
 Counte, qe ore se pleynt, fut mene¹¹ entre le *Scire facias*

¹ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 102. It there appears that the assise was brought by Richard Earl of Arundel against John de Cherleton and Hawise his wife, and two others who disclaimed tenancy. The record is of great length, extending over three skins closely written on both sides, and part of another skin. The proceedings in error which are mentioned in the report are set out at length, and they in turn set out the earlier proceedings before the Justices sitting by virtue of a special commission in the March of North Wales.

² L., Henre.

³ L., Carletone.

⁴ Harl., et.

⁵ T., Geffray G. ap Nowen; L., Gryffyn apud Nowen; 16,560, Griffyn afowen; 25,184, Gyffryn Gap Nowen, instead of Griffin ap Wenonwen. In the record Hawise's title by descent from Griffin ap Wenonwyn does not appear in the plea before the Justices of Assise, but only in her plea in the Common Bench, after her admission to defend on her husband's default.

⁶ L., moustre.

⁷ 25,184, Gyffryn.

⁸ L., H.

⁹ L., Carletone.

¹⁰ The words qil fut are omitted from T. and 25,184.

¹¹ mene is from 16,560 and Harl. alone.

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A.D. 1342. against Griffin (by virtue of the feoffment of this same Griffin), and the judgment on the reversal; judgment whether in respect of such an estate,—(and he made *profert* of the record *sub pede sigilli*)—he ought to have assise. To this the plaintiff said that Griffin de la Pole, the lady's uncle, whose heir she is, released to Richard the Earl all his right, and bound himself and his heirs to warranty, which Richard continued that estate until after the death of the same Griffin, so that this obligation of warranty descended on the lady, and thus he was seised and disseised, and he prayed the assise. Thereupon they were adjourned into the Bench *propter difficultatem*. And then, after John had

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porte vers G.¹ [par le feffement mesme celuy G.]² et le A.D. 1342. jugement sur le reverser ; jugement si de cel estat,—et mist³ avant le record *sub pede sigilli*—deive assise avoir ; a quei le pleintif dit qe G. de la Pole, uncle la dame, qi heir ele est, relessa a Richard Counte tut soun dreit, et obligea luy et ses heirs a la garrantie, le quel Richard cel⁴ estat continua⁵ tanqe apres la mort mesme celuy G., issi qe cel lien de la garrantie descendi sour la dame, et issi fut il seisi et disseisi, et pria lassise ; sour quei⁶ ils furent ajournes en Baunk pur difficulte.⁷ Et

¹ L., H.

² The words between brackets are omitted from 25,184.

³ L., nul.

⁴ The words Richard cel are omitted from L.

⁵ L., il continua.

⁶ Harl., qoi.

⁷ There are on the roll two pleadings before the adjournment into the Common Bench, which are omitted from the report :—

“ Et Johannes de Cherleton et
“ Hawisia dixerunt quod prædictus
“ Comes per hujusmodi titulum
“ assisam versus eos habere non
“ debuit, quia dixerunt quod ipsi
“ per placitum suum superius alle-
“ garunt ipsum Comitem habuisse
“ statum in manerio prædicto ex
“ feoffamento prædicti Griffini, et
“ hoc medio tempore inter datam
“ prædicti brevis de *Scire facias* et
“ diem prædicti judicii revocati et
“ adnullati, &c., et nullum alium
“ statum in eodem manerio habu-
“ isse, &c., et idem Comes in faci-
“ endo titulum suum non allegavit
“ ipsum aliquem alium statum ha-
“ buisse in manerio illo nisi per
“ feoffamentum prædicti Griffini
“ post datam prædicti brevis de
“ *Scire facias*, et prædictum scrip-

“ tum fuit de data diei Lunæ prox-
“ imi post Festum Apostolorum
“ Philippi et Jacobi anno regni
“ domini Regis nunc sexto, quæ
“ quidem data fuit medio tempore
“ prædicto, prout manifeste appa-
“ ret, et per prædictam revocatio-
“ nem et adnullationem primi ju-
“ dicii, &c., status prædicti Griffini
“ necnon status prædicti Comitum et
“ cujuslibet alterius, qui statum
“ habuit in eodem tempore, ad-
“ nullati fuerunt et pro nullis
“ habiti, unde petierunt judicium
“ si prædictum scriptum tali medio
“ tempore factum seu aliquod aliud
“ per prædictum Comitem superius
“ allegatum eidem Comiti pro
“ titulo valere, seu idem Comes
“ per hujusmodi titulum assisam
“ habere deberet, &c.

“ Et Comes dixit quod, ex quo præ-
“ dicti Johannes et Hawisia non de-
“ dixerunt prædictum scriptum fu-
“ isse factum prædicti Griffini a vun-
“ culi ipsius Hawisie, cujus heres
“ ipsa fuit, nec etiam quin idem
“ Comes seiscitus fuit tempore con-
“ fectionis ejusdem scripti, et seisi-
“ nam suam continuavit tota vita
“ ipsius Griffini, nec seisinam ipsius
“ Comitum post mortem ejusdem
“ Griffini, prout ipse superius alle-

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A.D. 1342. appeared, he made default, wherefore the lady was admitted to defend, and pleaded in bar the same plea as above, and added to it that Griffin, against whom the *Scire facias* as above to hear the record was sued, was tenant on the day when the writ was purchased.—*Thorpe*. She is a total stranger to that record, for her husband alone lost, by which loss, if she speak the truth, there was a disseisin to her, for which her action is saved to her after the death of her husband, and damages for the whole time; and the subsequent reversal, which was at the suit of the husband alone, restores him solely to the possession, and gives nothing to the wife; wherefore she is a stranger, so that such a plea does not lie in her mouth; and we pray the assise.—*Derworthy*. It is not so; for we have alleged that before the recovery it was the inheritance of the wife; and, when the husband lost, although the wife was not disseised, still when the husband reversed the record, he did not recover any new estate but was restored only to his first possession; and if the first possession was in right of the wife, he was

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donques¹ apres ceo qe Johan avoit² apparu,³ il fist A.D. 1342. defaute,⁴ par quei la dame fut resceu⁵ et pleda mesme le plee *ut supra*⁶ en barre, et ajousta⁷ a ceo qe G.,⁸ vers qi le *Scire facias* doier le record fut suy, fut tenant jour de bref purchace.—*Thorpe*.⁹ A cele recorde ele est tut estraunge, qar soun baroun¹⁰ soul perdist, par quel perde, si ele die verite, fut disseisine a luy, de quei saccion luy est salve¹¹ apres la mort soun baroun, [et damages de tut temps; et le reverser apres, qe soulement fut la suyte le¹² baroun, luy]¹³ remet solment¹⁴ a la possession, et rien doune a la femme; par quei ele est estraunge, issi qe tiel plee en sa bouche ne gist pas, et prioms assise.—*Derworthi*. Il nest pas issi; qar nous¹⁵ avoms¹⁶ allegge qe devant le recoverer ceo fuit¹⁷ leritage la femme; et, quant le baroun perdist, tut¹⁸ ne fuit la femme disseisi, unquore, quant¹⁹ le baroun reversa le recorde, il ne recoversa nul novel estat, mes fut restitut a sa primere possession soulement;²⁰ et si²¹ la primer possession fut le dreit sa femme, *ergo* en cele et en nule

" gavit, in quo casu idem Comes, vir-
" tute scripti prædicti et seisinæ sua
" sichabitæ et post mortem prædicti
" Griffini diu continuatæ, habuit
" verum statum et verum liberum
" tenementum in manerio prædicto
" versus quoscumque, et maximo
" versus prædictos Johannem de
" Cherleton et Hawisiam, qui tunc
" prædictum manerium prædicto
" Comiti versus quoscumque tene-
" bantur warrantisare, ut prædictum
" fuit, unde petit iudicium si ipse
" assisam habere non deberet, &c."

¹ Harl., puis.

² Harl., ust.

³ According to the record, John did not appear in the Common Bench at all.

⁴ 16,560, testament.

⁵ Harl., rescieu.

⁶ According to the record, her plea

here showed her title from Griffin ap Wenonwyn or son of Gwenonwyn, her grandfather, which was previously omitted. See p. 313, n.5.

⁷ L., 16,560, and Harl., ajusta.

⁸ L., R.

⁹ 25,184, *W. Thorpe*.

¹⁰ 16,560, barre.

¹¹ L., done.

¹² 16,560, od; Harl., au.

¹³ The words between brackets are omitted from L.

¹⁴ All the MS. except Harl., severalment.

¹⁵ T., ceo qe nous.

¹⁶ avoms is omitted from T.

¹⁷ L. and 16,560, est.

¹⁸ tut is omitted from T.; L., tynt, instead of perdist tut ne.

¹⁹ quant is omitted from L.

²⁰ soulement is omitted from T.

²¹ si is omitted from T.

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A.D. 1342. therefore restored to that and to no other.—*Thorpe*. If a tenant for a term of years loses by judgment, and afterwards sues to reverse the judgment, and has restitution, he is in, as in the freehold, and not as a termor in his first estate.—*Derworthy*. Certainly he is in, as termor.—*Thorpe*. I prove that he is not; for after restitution is made to him, if the other, who first recovered from him, bring a *Præcipe quod reddat* against him, he shall not abate the writ; therefore he is tenant of the freehold.—*Derworthy*. It does not follow that he has a freehold because he cannot abate the writ; for if I bring a writ against a termor, and demand the freehold against him, and he accept the writ, he has not on that account a freehold.—*Thorpe*. Suppose that the heir of the husband had sued to reverse the judgment, would he not have the freehold separately? (as meaning to say that he would). So also had the husband.—*Derworthy*. The heir of the husband would not have any suit in this case.—*PARNING*. There is no doubt that the first judgment was a disseisin to the wife; then, when the husband reversed it, the restitution made to the husband was only as a re-entry for the wife upon her disseisor, because she had nothing by the judgment; see then whether a re-entry without judgment can defeat a mesne estate had by feoffment; wherefore it seems that on her confession you can convict her of being a disseisor. And besides, even although she had not acknowledged any title or ouster to you, she has counterpleaded the assise, which is a disseisin if you can affirm your possession good by title.—*Thorpe*.

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altre fut il¹ remis.—*Thorpe*.² Si tenant a terme daunz A.D. 1342. perde par jugement, et puis suist del reverser, et ad restitution, il est einz en le fraunctenement et noun pas termer en soun primer estat.—[*Derworthi*. Certes si est.—*Thorpe*. *Probo quod non*; qar apres ceo qe restitution luy est fait, si lautre porte *Præcipe quod reddat* vers luy, qe³ primes recovere vers luy,⁴ il nabatera pas le bref, *ergo* il est tenant de fraunctenement].⁵—*Derworthi*. *Non sequitur* qil ad fraunctenement pur ceo qil ne poet pas abatre le bref; qar si jeo porte bref vers termer, et demande vers luy fraunctenement, [et il accepte le bref, il nad pur ceo fraunctenement].⁵—*Thorpe*. Jeo pose qe leir le baroun ust suy⁶ de reverser le jugement, navereit il severalmment le fraunctenement,⁷ *quasi diceret sic*; et auxi avoit le baroun.—*Derworthi*. Leir le baroun navereit nule suyte en ceo cas.—PARN. Le primer jugement fut disseisine a la femme nest pas doute; donques, quant le baroun le reversa, la restitution fait al baroun fut forsque come⁸ un entre pur la femme arere sur soun disseisour, qar par le jugement ele navoit rien; veiez donques, si entre arere sanz jugement poet defaire mene⁹ estat eu¹⁰ par feffement; par quei semble qe de sa conisaunce vous la¹¹ poez atteinre disseisour. Et ovesqe ceo, tut nust ele conu nul title¹² ne ouster a¹³ vous, ele ad countre-[plede lassise, quel est disseisine si vous pussez affermer vostre possession bone par title.—*Thorpe*. Par cas,

¹ L., cle.² L., *W. Thorpe*.³ T., L., and 25,184, et.⁴ The words qe primes recovere vers luy are omitted from L.⁵ The passage between brackets is omitted from 25,184.⁶ suy is omitted from L.⁷ The words le fraunctenement are omitted from Harl.⁸ come is omitted from L.⁹ T., meen; L. and Harl., m.; 25,184, moun.¹⁰ L. and 25,184, ou.¹¹ T., luy.¹² L., tiel.¹³ L., ne ostra; 16,560, ne ostra; Harl., moustre, instead of ne ouster a.

No. 14.

A.D. 1342. Perchance, Sir, it is so ; but whoever pleads in that manner must be in agreement as to the matter, and that we will not be, but we think to prove by the matter whereof she speaks (even if it were so, which we do not admit) that the plea does not lie in her mouth, because she is a stranger to the record, and is not party, or heir, or assignee, as she herself shows. Besides, she does not certify the Court that there is such a record, for even though this be entered in the record, it is only the plea of the husband. And also in this *Scire facias ad audiendum errores* it is not required that the tenant should be named ; wherefore a judgment on such a writ can not defeat a mesne estate, and particularly when this *Scire facias* issued without an original which could warrant it, for the first judgment was given without an original. And this point was assigned for error, and also the point that a person other than a party or heir of a party can not maintain the recovery to be good, and cannot therefore plead a mesne estate in bar. And in the opinion of some the second judgment was as much a disseisin as the first, for both one plea and the other were without warrant.—*Derworthy*. You do not

No. 14.

Sire, il est]¹ issi; mes² qi³ qe plede par la manere il A.D. 1342.
 covendreit estre a un de la matere, et ceo voloms nous
 pas, mes entendoms⁴ prover⁵ par⁶ la matere⁷ dount
 ele parle, tut fut ceo issi, quele chose nous ne conissoms
 pas, qe le plee ne gist pas en sa bouche pur ceo qe⁸
 est estraunge al recorde, et nest pas partie, ne heir, no
 assigne, come ele⁹ moustre mesme. Ovesqe ceo, ele
 nassert¹⁰ pas la Court qe tiel record y ad, qar tut soit il
 entre el recorde, ceo nest forsqe le plee le baroun. Et
 auxi en ceo *Scire facias* doier errour *non requiritur*¹¹
 qe tenant fut nome; par quei jugement sur tiel bref ne
 poet pas defaire meen¹² estat, et nomement quant ceo
Scire facias issit saunz original qe le purreit¹³ garrantir,
 qar le primer jugement fut rendu sanz original. Et ceo
 fut pris pur errour;¹⁴ et auxi autre qe partie ou¹⁵ heir
 de partie ne¹⁶ poet meyntener le recoverir bon, *ergo* ne
 pleder¹⁷ en barre par mene¹⁸ estat. [Et al entente das-
 quns si avant come le primer jugement fuit disseisine
 si avant fuit le secunde, qar lun et lautre plee fuit
 saunz garrant].¹⁹—*Derworthi*. Vous pledes nulo²⁰

¹ The passage between brackets is omitted from Harl.

² mes is omitted from all the MSS. except T. and 25,184.

³ qi is omitted from 16,560 and Harl.

⁴ L., ostendoms.

⁵ T., de prover.

⁶ Harl., qe.

⁷ T., L., and Harl., manere.

⁸ Harl., qil.

⁹ T., eit.

¹⁰ L., nassert; 16,560 and Harl., nassiert; 25,184, nassiert.

¹¹ Harl., *sequitur*.

¹² 25,184, mon; the other MSS. except T., m.

¹³ T., pout.

¹⁴ According to the record one of the assignments of error was the

want of an original writ, according to the common law, without which no one ought to be impleaded in respect of the land in question, and one of the grounds for reversal of judgment was that "præfati Justiciarii erraverunt in hoc quod tenuerunt placitum de prædictis tenementis secundum legem et consuetudinem Wallie et partium illarum, ubi tenementa illa tenebantur de domino Rege in capite."

¹⁵ 16,560 and Harl., ne.

¹⁶ ne is omitted from Harl.

¹⁷ Harl., pledrez.

¹⁸ L. and Harl., m; 16,560, mesme.

¹⁹ The passage between brackets is from T. alone.

²⁰ nulo is omitted from T.

No. 14.

A.D. 1342. plead any new matter, but, to the matter delivered by us ; wherefore what we say must be held as not denied. —*Blaykeston*. If the reversal of the judgment restored us to our first right, then it lies in our mouth ; and if not, then since he has made us tenant by his writ and by accepting our admission to defend, and our first answer, that can relate only to a lower tenancy, and consequently the plea lies in our mouth. And if my tenant for term of life lose by judgment, and afterwards reverse the judgment by way of error, because by the first judgment I lost the reversion, and by the reversal it was restored to me, I shall plead it, even though I be a stranger ; so in this case, although I was disseised by the first judgment given against my husband, in respect of which an action would be given to me after his death and not during his life, by the subsequent reversal I was restored to my first possession, and the disseisin was purged ; wherefore this does lie in my mouth, &c.— And note that it seemed to PARNING and several Justices that the plea did not lie in her mouth.—And afterwards *Thorpe* said that he did not admit that Griffin was tenant on the day on which the *Scire facias* was brought ; but he said that Griffin de la Pole, the lady's uncle, whose heir she is, during the Earl's seisin released all his right, and bound himself and his heirs to warranty, which seisin the Earl continued during the whole of Griffin's life, and after his death until the obligation to warrant attached on the lady, and thus he was seised, &c.—*Derworthy*. We do not admit the deed, or that she is heir, and we tell you that the execution of the reversal

No. 14.

[novele matere mes a la]¹ matere livere de nous ; par A.D. 1849
 quei il covient qe ceo qe nous dioms soit tenu² nient
 dedit.—*Blaiik*. Si le reverser del jugement nous mist en
 nostre primer dreit, donques gist il en nostre bouche ; et,
 si noun, donques del houre qil nous ad fait tenant par
 soun bref et par lacepter de nostre resceite et de nostre
 primer³ respons, ceo ne poet estre forsque de tenance plus
 bas, et *per consequens* le plee gist en nostre bouche. Et
 si mon⁴ tenant a terme de vie perde par jugement, et
 puis le reverse par voie derroure, pur ceo qe par le primer
 jugement jeo perdi reversion, et par le reverser ele fut
 restitut a moy, jeo le pledray et⁵ si suy jeo⁶ estraunge ;
 auxi de ceste part,⁷ tut fu⁸ jeo disseisi par le primer
 jugement taille vers mon baroun, de⁹ quei accion moy
 serroit done apres sa mort et noun pas en sa vie, par le
 reverser apres jeo fui remis a ma primere possession, et
 la disseisine purge ; par quei¹⁰ ceo gist en ma bouche,
 &c.—*Et nota* qe sembloit a PARN. et plusours Justices
 qe la plee ne gist pas en sa bouche.—Et puis
*Thorpe*¹¹ dit qil ne conust pas qe Griffin¹² fut tenant
 jour del¹³ *Scire facias* porte, &c. ; mes il dit qe Griffin
 de la Pole, oncle la dame, qi heir ele est, en sa seisine
 relessa tut soun dreit et obligea lui et ses heirs¹⁴ a la
 garrantie, quele seisine il continua tote la vie Griffin, et
 apres sa mort tanqe le lien attacha en la dame, et issint
 fut il¹⁵ seisi, &c.—*Derworthi*. Nous conissons pas le
 fait, ne qe ele soit heir, et vous dioms qe execucion del

¹ The words between brackets are
 omitted from Harl.

² Harl., *conu*.

³ primer is omitted from 16,560.

⁴ L., noun.

⁵ et is omitted from T.

⁶ T., jeo soi, instead of suy jeo.

⁷ L., ceo partie, instead of ceste
 part.

⁸ T, fui ; L., seo ; Harl., sui.

⁹ 25,184, *vers*.

¹⁰ 16,560, *qoi*.

¹¹ Harl., *respount R.*, instead of
Thorpe.

¹² L., M.

¹³ In L. the words *bref purchase*
de are inserted after *del*.

¹⁴ T., &c., instead of *lui et ses*
heirs.

¹⁵ L., *ele*.

No. 15.

A.D. 1342. of the judgment was had during the life of Griffin, without this that the Earl continued his seisin until after the death of Griffin; ready, &c.—And the other side said the contrary.—And observe that it was not alleged by the Earl that this release was made after the supposed reversal of judgment by reason of the *Scire facias*, for if this was not so, then, even though the judgment was subsequently reversed, and the person who released with warranty died, the obligation of this warranty descended on this lady, if execution was not had during the life of the person who released.

Trespass. (15.) § Trespass, against Walter Pyry and Alice his wife. To the *Capias* the Sheriff returned that the husband was not found. The wife came in custody of the Sheriff, and a Protection was produced for the husband.—*Pole*, for Alice, demanded judgment of the writ, because heretofore, in a Formedon which the same Alice as a *feme sole* brought against him who is now plaintiff, he alleged against her that she was covert of one Richard de Wodehale, which plea is still pending and now he supposes that she is covert of another, which can not be, &c.—*Thorpe*. Perchance that exception in the Formedon was good, and this exception in this writ

No. 15.

reverser¹ del jugement fut fait en la vie Griffin, saunz A.D. 1342:
ceo qe le Counte continua tanqe apres la mort Griffin;
prest, &c.—*Et alii e contra.*²—*Et vide* qil ne fuit pas
allegge par le Counte qe cel rolees se fit puis le reverser
du jugement par le *Scire facius* suppose, qar si ceo ne
fuit pas, et mesqe puis le jugement fuit reverse, et cely
qe relessa ove garrantie morust, et le lien de cel garran-
tie si descendi sur la dame, si execucion ne fuit pas fet
en la vie celuy qe relessa, &c.—*Quære.*

(15.)³ § Trespas vers Walter Pyry⁴ et Alice sa *Trespas*.
femme. Al *Capias* le Vicounte retourna qe le baroun
nest pas trove. La femme par Vicounte vint en garde,
et Proteccion fut mys avant pur le baroun.—*Pole*, pur
Alice, demanda jugement du bref,⁵ qar altrefoit, a un
Forme de doun quel mesme ceste Alice come⁶ soule porta
vers mesme cestuy qe ore est pleintif il alleggea countre
luy qe ele fuit coverte dun Richard de Wodehale,⁷ quele
plee pent⁸ unqore, et ore il suppose qe ele est⁹ coverte
daltre, qe ne poet estre, &c.—*Thorpe*. Par cas cele
excepcion en le Forme de doun [fut bone, et ceste excep-
cion en¹⁰]¹¹ cestuy bref auxi, qar adonques par cas fuistes¹²

¹ L., reversion.

² The report ends here in all the MSS. except 25,184.

The joinder of issue and re-
mittitur to the Justices of Assise
appear on the roll as follows:—
“ Et Comes dicit quod ipse fuit
“ seisinus de prædicto manerio in
“ visu posito, cum pertinentiis, post
“ mortem prædicti Griffini de la
“ Pole, prout ipse superius alle-
“ gavit. Et hoc petit quod inqui-
“ ratur per assisam, et Huwisia
“ similiter. Ideo super hoc capia-
“ tur assisa. Et sciendum quod
“ recordum prædictum, una cum
“ brevi originali, et pannello, et om-
“ nibus aliis assisam illam tangenti-
“ bus, remittitur Justiciariis ad As-

“ sisas in prædicto comitatu capi-
“ endas ad capiendum inde assisam
“ in patria, &c.”

³ From the five MSS. as above.

⁴ 25,184, Thomas atte l'iry in-
stead of Walter Pyry.

⁵ The words du bref are omitted
from L.

⁶ L., come ele fuit.

⁷ T., Wodhale; L., Wedehade;
Harl., Wodeshale.

⁸ pent is omitted from L.

⁹ est is omitted from 25,184.

¹⁰ The words cest excepcion en
are omitted from L. and Harl.

¹¹ The words between brackets
are omitted from 16,560.

¹² 16,560, futz; 25,184, feustes.

No. 16.

A.D. 1342. also, for then perchance you were covert of another, and now are covert of Walter.—HILLARY. Can you say anything against the Protection for the husband?—*Thorpe*. Yes, he has not a day.—HILLARY. What of that?—*Thorpe*. Allow it then, so that our writ may be affirmed good.—SHARSHULLE. We do not hold your writ to be either good or bad, but we allow the Protection for the husband, and as to him we put the parol without day. And as to her whom you suppose to be his wife, if she be otherwise, she can well say so afterwards.—And the woman passed quit.—*Quære* of this matter below in Hilary Term next following in a Formedon in which Alice would not have continued jury-process as a *feme sole*.¹

*Per quas
servitia.*

(16.) § The tenant came, and shewed how Philip de Columbers, ancestor of Stephen de Columbers the cognisor, acknowledged by fine the manor of B., of which these services are parcel, to be the right of one A. as that which A. had of Philip's gift, &c., and A. rendered back to Philip and to A. Philip's wife and the heirs of Philip; and afterwards Philip and A. his wife by fine

¹ See Y.B. Hil. 17 E. III., No. 28, | which two cases will probably be
and No. 54, of the edition of 1679, | No. 28 of the Rolls edition.

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vous coverte daltre, &c., et ore de Wauter.—HILL. A.D. 1342.

Savez rien dire contre la Proteccion pur le baroun?—

Thorpe. Oil, il nad pas jour.—HILL. De ceo quei?—

Thorpe. Issi qe nostre bref soit afferme bon¹ alowes la donques.—SCHAR. Nous ne tenoms vostre bref ne bon ne malveis,² mes nous alowoms la Proteccion pur le baroun, et mettoins la paroule saunz jour quant a luy. Et a cele qe vous supposez sa femme, mes si ele soit altre ele le³ dirra bien apres.—Et la femme passa quites.⁴—*Quære de ista materia infra Termino Hilarii proximo* en un Forme de doun⁵ ou Alice ne voleit aver continue une jure come sole.

(16.)⁶ § Le tenant vynt, et moustra coment Philipe *Per quas servitia.* de Columbers, auncestre Esteven de Columbers le conisour, conisat⁷ par fyne⁸ le maner de B., de qi ces⁹ services sount parcele, estre le dreit un A. come ceo qil avoit de soun doun, et il rendist arere a Philipe et a A. sa femme et a les heirs Philipe; et puis Philipe et A. sa

¹ Harl., lui.

² Harl., mauvais.

³ 25,184, ce; the word is omitted from the other MSS. except T.

⁴ The report ends here in L., 16,560, and Harl.

⁵ 25,184, bref instead of Forme de doun.

⁶ From the five MSS. as above, but compared with that which seems to be the record, viz., *Placita de Banco*, Mich. 16 Edw. III., Ro. 147. It there appears that the action was brought by Simon de Bradeneye against Thomas de Ralegh and others, in respect of services in various places in Somersetshire, the count being in respect of the manor of Donwere in Bridgwater. It was alleged that the tenements were held

of Stephen de Columbers, who granted the services by fine to Simon de Bradeneye. The matter relating to the earlier fines does not appear upon the roll, which shows only that the issue joined was whether the tenant held of Stephen de Columbers on the day of the levying of the fine by which the services were granted.

There is a similar case with a different demandant and different tenants on Ro. 147d., but the proceedings follow the same course, the issue being as above.

⁷ 16,560 and Harl., conisast.

⁸ The words par fyne are omitted from Harl.

⁹ T., L., and Harl., ses.

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A.D. 1342. acknowledged the same manor of B., to which manor these services are regardant, to be the right of G. and J. as that which G. and J. had of their gift, for which acknowledgment G. and J. granted and rendered the same manor to Philip and A. his wife for their lives, remainder over; and so by force of the fine levied by the ancestor of your cognisor we are attendant to A., who was the wife of Philip, and we do not understand that by the acknowledgment of his heir contrary to the fine which is of record we shall be put to acknowledge.—*Thorpe*. You allege two fines, to which you are a stranger, and you do not allege any attornment made by yourself by force of any fine, and we are strangers also: and if you will say that you did not hold of our cognisor we are ready to maintain that you did; and we demand judgment, and pray that you attorn, &c.—*Stouford*. If I were to allege a grant of my services by a deed *in pais* and an attornment, I should put you to answer; and we understand that by an acknowledgment by fine a right vests without attornment, for otherwise a party or the heir of a party would avoid it; wherefore against the fine there is no need to take an averment to the country; and we equally understand that we shall have the advantage against you which we should have against your cognisor.—*Thorpe*. What you say of a grant made *in pais* and attornment would be only a traverse to the note. And I say that when a manor to which services are regardant is rendered and granted by fine, and no mention is made of the services of the tenants, the services do not pass if the tenants will not attorn of their own accord, but remain to the grantor,

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femme par fyne conissoient mesme le maner de B., a A.D. 1342. quele maner ces services sount regardauntz, estre le dreit G. et J. com ceo qils avoient de lour¹ doun, pur quele reconissance G. et J. graunterent et renderent² mesme le maner a Philipe et A. sa femme a lour vies, le remeyndre outre; et issi par force de la fyne [leve³ par⁴ launcestre vostre conissour sumes entendaunt a A. qe fut la femme Philipe, et nentendoms pas qe par conissance soun heir countre la fyne]⁵ de recorde serroms⁶ mys de couestre.—*Thorpe*. Vous alleggez deux fynes a quels⁷ vous estes estraunge, et vous nallegez nul attournement de vous mesmes fait par force de nule fyne, et nous sumes estraunge ovesqe; et si vous voillez dire qe vous tenistes pas de nostre⁸ conisour, nous sumes prest de meyntener qe cy; et demandoms jugement, et prioms qe vous attournez,⁹ &c.—*Stouf*. Si jeo alleggeasse graunt de mes services par fait en pais et attournement, jeo vous mettrai a respondre; et nous entendoms qe par conissance par fyne dreit veste saunz attournement, qar autrement partie¹⁰ ou heir de partie la voidreit; par quei countre la fyne ne bosoigne pas de prendre laverement de¹¹ pais; et owelment entendoms daver lavantage countre vous qe nous averoms countre¹² vostre conissour. —*Thorpe*. De ceo qe vous parlez de graunt fait en pais et attournement ceo serroit forsqe a travers a la note. Et jeo die quant un maner a qi services sount regardauntz est rendu et graunte par fyne, [et nule mencion des services des tenantz fait],¹³ qe les services ne passent pas, si les tenantz de gree ne voillent attourner, mes

¹ All the MSS. except Harl., soun.² 25,184, rendirent.³ Harl., fait.⁴ The words leve par are omitted from 16,560.⁵ The words between brackets are omitted from L.⁶ 25,184, sumes.⁷ L., quez.⁸ L., mesme le, instead of nostre.⁹ The words qe vous attournez are omitted from T. and 25,184.¹⁰ partie is omitted from L.¹¹ 25,184, en.¹² L., 16,560, and Harl., vers.¹³ The words between brackets are omitted from Harl.

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A.D. 1342. because nothing passes by the fine but that whereof a party could have execution, and that he would not have of services in such a case, for otherwise it would follow that by his grant the grantor would estrange the tenants from warranty and acquittal of services ; and if he to whom such a grant of the manor was made were to make avowry, &c., he would never maintain it without possession or attornment ; therefore they would remain tenants to the grantor or else to no one, &c.—SHARSHULLE. When by the fine the ancestor of your cognisor divested himself of right to the manor of which these services are parcel, and the tenant, as appears now by the plea, assented, the ancestor of your cognisor was out of the seignory ; for suppose that one of the tenants of the manor committed felony, and the person to whom the right of the manor was acknowledged entered, would he not retain it upon a writ of Escheat by force of the fine ? And also if he levied the rent by distress on the tenants, and a writ were brought against him for the rent by the ancestor of the cognisor or the cognisor himself, would he not retain to it ? For the case is very different when the dispute is between the cognisor and the grantee, from that which it would be if the dispute were between the grantee and the tenant, and the tenant would not assent to be attendant to the grantee, because the tenant perchance can choose to whom he will be attendant after that grant.—*Thorpe*. No, Sir, the cognisee would not retain it in the case which you put, for if he were to claim the services, and the seignory, by virtue of the fine levied of a manor, I should have the answer that the services are not parcel, for nothing is parcel but what passed to him ; but the services did not

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demurent al grantour, pur ceo qe rien ne passe par la ^{A.D. 1342.} fyne¹ forsqe ceo dount partie purroit aver execucion, et ceo naveroit il pas des services en tiel cas, qar autrement ensuereit il qe par soun graunt² il estraungereit les tenantz de garrantie et acquitance; et si celuy a qi tiel graunt fut fait dun maner avowast, &c., il meytendreit jammes saunz possession ou attournement;³ *ergo* ils demurerent⁴ tenantz⁵ al grantour, ou autrement a nul homme, &c.—SCHAR. Quant par la fyne launcestre vostre conissour se demist de dreit del maner de qi ces services sount parcele, et le tenant, come piert ore par le plee, est del assent, launcestre vostre conissour⁶ fut hors de seignurie; qar mettez qun des tenantz del maner fist felonie, et celuy a qi le dreit du maner fut conu entrast, ne retiendra⁷ il a un⁸ bref deschete par force de la fyne? Et auxi sil levast la rente par destresse des tenantz, et bref de la rente fut porte vers luy par⁹ launcestre le conissour ou le¹⁰ conissour mesme, ne retiendra¹¹ il? [Qar il y ad graunt diversite quant le debat est entre le conisour¹² et le graunte, qe come si debat fuit entre le graunte et le tenant, et le tenant ne se volleit assenter destre entendaunt al graunte, pur ceo qe le tenant par cas poet eslire a qi il voet estre entendaunt apres cele graunt].¹³—*Thorpe*. Noun, Sire, [il retendra pas el cas qe vous mettes],¹³ qar sil clamast les services, et la seignurie, par la fyne leve dun maner, jeo averay respouns qe les services ne sount pas parcele [qar rien nest parcele]¹⁴ mes ceo qe passa en luy; mes les

¹ The words *par la fyne* are omitted from T. and 25,184.

² L., *tenant*.

³ 16,560 and 25,184, *altrement*.

⁴ L., *demureit*.

⁵ L., *tenant*.

⁶ The words *vostre conissour* are from T. alone.

⁷ 16,560, *rendra*.

⁸ 25,184, *son*.

⁹ The words *luy par* are omitted from L.

¹⁰ L., *del*; Harl., *par le*.

¹¹ Harl., *rendra*.

¹² 25,184, *grantour*.

¹³ The words between brackets are omitted from L., 16,560, and Harl.

¹⁴ The words between brackets are omitted from Harl.

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A.D. 1842. pass, for the reason above; and, since he is a stranger to allege this matter, judgment.—And then *Derworthy* said that he might well dare to abide judgment in law whether, contrary to the acknowledgment, as above, the tenant ought to be put to claim by reason of the deeds to which the ancestor of the cognisor was party, but, in order to avoid delay, he said *gratis* that the tenant did not hold of the cognisor; ready, &c.—And the other side said the contrary.

Fine. (17.) § Edward de Pabenham and M. his wife grant the tenements comprised in the writ to Simon Cressy and H. his wife, and release and quitclaim whatever they have in the dower of M. to Simon and H. his wife and the heirs of Simon for ever; and for that grant, release, quitclaim, fine, and concord, the aforesaid Simon and H. his wife grant, for themselves and the heirs of Simon, six marks of silver, to be taken yearly from the said land, to Edward and M. his wife, for the life of M., and grant that, if the rent be in arrear, it shall be lawful for them, as above, to distrain for the life of M., and that after the death of M. the rent shall cease. And that fine was admitted before SHARDELOWE and KELSHULLE, the others being absent; for such a fine on a grant of rent by a *feme covert* has been often refused, where the writ of Covenant is only in respect of land, because the Court can only examine her about the matters comprised in the writ; but here the wife was examined on the grant of the rent.—Therefore *Quære*.

Dower. (18.) § Dower. The tenant came on the first day and rendered. And, notwithstanding, the demandant, with a view to her damages, had the averment that he (the tenant) had not been always ready to render, &c.

Nos. 17, 18.

services ne passerent pas *causa qua supra*; et, del A.D. 1342. heure qil estraunge dallegger ceste chose, jugement.— Et puis *Dernworthi* dit qil osast bien demurer en ley si, countre la conissance, *ut supra*, par les faitz a quel launcostre le conissour fut partie, si¹ le tenant dust estre mys de² clamer, mes de gree³ pur delaye eschuir⁴ il dit qe le tenant ne tynt pas del conissour; prest, &c. —*Et alii e contra.*

(17.)⁵ § Edward de Pabenharn⁶ et M. sa femme grauntent les tenementz contenuz el brof a Symond Cressy⁷ et H. sa femme, et relessent et quit clament⁸ quant qil avoint en dower M. a Symond et H. sa femme et les heirs Symond a touz jours; et pur cel graunt relees,⁹ quitecleyme, fyne, et concorde, les avanditz Symond et H. sa femme grauntent¹⁰ pur eux et les heirs Symond¹¹ vj. marcz dargent, a prendre dan en an, de la dite terre, a Edward et M. sa femme pur la vie M., et grauntent qe si la rente soit arere qe lise a eux, *ut supra*, a destreindre pur la vie M. et apres le decees M. qe la rente cesse. Et cele fyne fut resceu devant SCHARD. et KELS., *aliis absentibus*; qar tiel fyne sur graunt de rente par femme¹² coverte ad este sovent refuse, ou le bref de Covenant nest forsque de terre, qar Court ne la poet examiner forsque de chose contenu in le bref;¹³ *sed hic* la femme fuit examine sur graunt de rente.—*Quære ergo.*

(18.)⁵ § Dower. Le tenant vynt al primer jour et rendist. Et, *non obstante*, la demandante, pur ses damages, ad laverement qil nad pas este tut temps prest a 59.] rendre,¹⁴ &c.

¹ L., et si.

² 25,184, par.

³ The words de gree are omitted from T. and 25,184.

⁴ L., eschuiere; 16,560, esclure; 25,184, eschuer; Harl., eschurer.

⁵ From the five MSS. as above.

⁶ T., Pakenham; L., P.

⁷ L., Cresse; Harl., Griffyn.

⁸ Harl., quitelement.

⁹ L., releese.

¹⁰ grauntentis omitted from 25,184.

¹¹ 16,560, M; L., E.

¹² L., forme.

¹³ Harl., dit bref de covenante.

¹⁴ L., render.

No. 19.

A.D. 1342.
Dower.

(19.) § Dower. The demand was made for a moiety.
—*Thorpe*. As to a third part which belongs to her as of common right we render; and as to the residue, which is contrary to common right, judgment whether an action, &c.—*SHARDELOWE*. Do you maintain your demand contrary to common right by a special cause?—*Rokele*. We tell you that the tenements of which, &c., are socage and within the Hundred of Tendring, in which Hundred, in respect of all the tenements which are socage, ladies are dowable and have always been endowed of a moiety.—*Thorpe*. He does not allege the custom of any certain fee or of the country.—This exception was not allowed.—*Thorpe*. We do not admit the customs of this Hundred to be such, but we tell you that ladies have been endowed of a third part of this land and not of a moiety; ready, &c.—*SHARSHULLE*. You do not

No. 19.

(19.)¹ § Dowere. La demande fut fait de la moite. A.D. 1342.
 ---Thorpe. Quant a la terce partie qe attynt² de comune Dowere.
 dreit nous rendoms; et, quant al remenant qest coudre
 comune dreit, jugement si accion, &c.³—SCHARD. Meyn-
 tenez vostre demande coudre comune dreit par cause
 especial?—Rokel. Nous vous dioms qe⁴ les tenementz
 dount, &c., sont socage et deinz le Hundred de Ten-
 dring,⁵ deinz quel Hundred, de touz les tenementz qe sont
 socage, dames sont dowables et dowes de tut temps de
 moite.—Thorpe. Il nallege pas usage de certeyn fee ne
 du pays.—Non allocatur.—Thorpe. Nous conissons
 pas les usagés de cel Hundred estre tiels,⁶ mes⁷ vous
 dioms qe de ceste terre dames ont este dowes de terce
 partie, et noun pas de moite; prest, &c.⁸—SCHAR. Vous

¹ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 197d. It there appears that the action was brought by Joan late wife of William le Gros against Hugh son and heir of William le Gros, in respect of a moiety of 104 acres of land, 6 acres of meadow, 30 acres of wood, 9½ acres of alder-plantation, 5½ acres of pasture, and 35s. of rent in Tendring, Bentley, Great Frating, and Great Bromley (Essex).

² T., attynt; 25,184, A. tient; Harl., accion.

³ The plea, after giving a different description of the tenements, was, according to the roll, "quod uxores virorum prædicta tenementa tenentium, post mortem eorundem virorum suorum, a tempore quo non extat memoria, semper hactenus dotatæ fuerunt de tertia parte prædictorum tenementorum, et quod idem Hugo semper a tempore mortis præ-

dicti Willelmi quondam viri, &c., paratus extitit prædictam Johannam de tertia parte prædictorum tenementorum dotasse, si ipsa Johanna tertiam partem illam recepisse voluisset."

⁴ The replication, according to the record, was, "quod prædicta tenementa unde, &c., sunt infra Hundredum de Tendryng, et tenentur in socagio, in quo quidem Hundredo est talis consuetudo videlicet quod uxores post mortem virorum suorum dotari debent de medietate omnium terrarum et tenementorum que tenentur in socagio infra hundredum prædictum." On this issue was joined. The other points mentioned in the report have no place in the record.

⁵ T., R.; L., D.; 16,560 and Harl., A.; 25,184, B.

⁶ Harl., tiel temps.

⁷ mes is omitted from L.

⁸ The words prest, &c., are omitted from L.

No. 19.

A.D. 1349. answer as to the general custom, and as to that it seems that you ought by law to answer; for suppose that the customs generally were such, as above, and one or two ladies had foolishly accepted a third part for dower, that would not prejudice or damage any other.—*Thorpe*. Perchance there is no other socage land besides this land and one other parcel, and in the other parcel, by the foolishness of guardians or otherwise, other women have been endowed of too much, and in this land only of a third part; is that a reason why this land should be thereby brought out of the common course, when the custom never extended to this land?—*SHARDELOWE*. In Kent gavelkind land will be divided between males, and ladies will be endowed of a moiety, and there is in the same country plenty of land held in chivalry which is at common law.—*SHARSHULLE*. Gavelkind is out of the common law, and socage is not; and what need is there to speak of the custom of other tenements when this land is governed by the common law?—Then the woman of her own accord accepted her dower of the third part of parcel, and tendered the averment that the tenant was not always ready to render.—*Thorpe*. You shall not be admitted to that, because you have counterpleaded our render, and thus have delayed yourself.—And as to the residue, *Thorpe* said that the tenements of which she demands, &c., are of the fee of R., in which fee ladies have always been endowed of the third part.—To this *Rokele* was put to answer.

No. 19.

ne¹ responez pas² al general usage, et a ceo semble qe A.D. 1342. vous devez par ley respondre; qar mettes qe les usages generalment fussent³ tiels, *ut supra*, et une dame ou deux folement⁴ ussent pris dowere de terce partie, ceo ne grevera pas a une altre [ne damagereit.—*Thorpe*. Par cas il ny ad nul⁵ plus socage, forsqe⁶ ceste terre et une altre]⁷ parcele, et del altre parcele, par folie des gardeyns ou autrement,⁸ autres femmes ount este dowes de trop,⁹ et de ceste terre forsqe de terce partie; est ceo resoun qe ceste terre serroit mene¹⁰ par taunt¹¹ hors de comune cours, la en lusage sestendist¹² unques en ceste terre?¹³—SCHARD. En Kent terre de Gavilkynde¹⁴ serra reparti entre mals,¹⁵ et dames de moite dowes, et si ad il en mesme le pais chivalerie assetz qest a la comune ley.—SCHAR. Gavilkynde est hors de comune ley, et si nest pas socage; et quel mester¹⁶ ad il a parler a usage daltres tenementz quant ceste terre¹⁷ est mene par comune ley?—Puis la femme *gratis* resceut soun dowere de la terce partie de parcele,¹⁸ et tendist daverer qe le tenant ne fut pas tut temps prest a rendre.—*Thorpe*. A ceo ne serrez resceu, qar vous avez countreplede nostre rendre,¹⁹ issi delaie vous mesmes.—Et quant al remenant *Thorpe* dit qe les tenementz dount ele demande, &c., sount del fee de R., deinz quel fee dames de tut temps ount este dowes de la terce partie; a quei *Rokel* est mys a respondre.

¹ ne is omitted from T. and L.² pas is omitted from T. and L.³ T., fuissent; 25,184, feussent; Harl., fussoint.⁴ 16,560, solement; Harl., solment.⁵ 16,560, nient; 25,184, nyent.⁶ T., mes.⁷ The words between brackets are omitted from Harl.⁸ autrement is omitted from 16,560 and Harl.⁹ L., trosp.¹⁰ Harl., nome.¹¹ Harl., tenant.¹² L., sestendra.¹³ terre is omitted from L.¹⁴ 16,560, Gavilkyndais; 25,184, Gavilkyndays; Harl., Gavilkyndes.¹⁵ T., madles.¹⁶ 16,560, mestier; 25,184, meister; Harl., moustre.¹⁷ Harl., daverer.¹⁸ The words de parcele are omitted from L., 16,560, and Harl.¹⁹ L., rendere.

No. 20.

A.D. 1342. (20.) § Avowry by reason of a purparty of a rent-charge
 Avowry. granted by one parcener, who had the better purparty, to the other, who by allotment had the lesser portion ; and this avowry was for the assignee of the parcener, as appears above.¹ And afterwards, upon nonsuit, the Return was awarded. And a writ [of Second Deliverance] issued out of the rolls, and avowry was made.—*Pole*, for the plaintiff, as tenant of the manor in parcel of which the taking was made, prayed aid of one J., son and heir of J. de B., and showed how the reversion belonged to J. son of J., without whom he could not charge or discharge ; and he prayed aid, and because J. son of J. was under age, prayed that the parol might demur, &c.—*Derworthy*. Heretofore, on the same original writ, he complained of the same taking, and the aid was granted (after avowry for the same cause) of J. father of J. who is now prayed in aid, and he was summoned and did not come ; and therefore it was adjudged that the plaintiff should answer alone ; judgment whether now he ought to have aid.—*SHARDELOWE*. This writ which has issued out of the rolls is in lieu of an original, and he could count of another taking and in another place ; wherefore it is a different plea ; and at common law, when a new original was sued in such a case, the plaintiff would have aid ; therefore he shall have it now on this writ.—*Thorpe*. We are *actor* for the purpose of deraigning our services, and he shall not put us to delay by aid-prayer arising through his nonsuit, since this is the same original.—*HILLARY*. We award the aid.—*Thorpe*. He shall not have his age, for the heir himself would be

No. 20.

(20.)¹ § Avowere par cause de purpartie dune rente charge graunte par lune parcenere qe avoit la melliour purpartie³ al autre, qe avoit par allotement la pluis feble porcion ; et ceste avowere pur lassigne la parcenere, *ut patet supra*. Et apres, sur⁴ nounsuyte, retourn agarde. Et bref issit hors des roules, et avowere fait.—*Pole*, pur le pleyntif, come tenant del maner en parcele de quel la prise se fist, pria eide dun J. fitz et heir⁵ J. de B., et moustra coment la reversion fut en luy, saunz qi il ne poet charger ne⁶ descharger ; et pria eide, et pur ceo qil est deinz age qe la paroule demurast,⁷ &c.—*Derworthi*.⁸ Altrefoithe a mesme ceste original il fut pleynt⁹ de mesme la prise, et leide fut graunte, apres avowere sur mesme la cause, de¹⁰ J. pere J.¹¹ qest ore prie, et il somons et ne vynt pas, par quei fut agarde qil soul respondesit ; jugement si ore deyve eide avoir.—SCHARD. Cestuy bref qest issue hors de roules est en lieu doriginal, et il purra counter [daltre prise et]¹² en altre¹³ lieu ;¹⁴ [par quei cest altre plee ; et a la comune ley, quant novel original fut suy en tiel cas, le pleintif averoit eide ; *ergo* ore a ceo bref.—*Thorpe*. Nous sumes actour¹⁵ a derener noz services, et il nous mettra pas a delaie par eide priero par sa nounsuyte, del houre qe ceste un mesme original.—HILL. Nous agardoms leide.—*Thorpe*. Il navera pas]¹⁶ soun age, qar leir mesme

A.D. 1349.

Avowere.²

[Fitz.,

Age, 48;

Ayde,

131.]

¹ From T., L., 16,560, 25,184, and Harl.

² 25,184, *Reptugiari*.

³ Harl., *partie*.

⁴ L. and 16,560, *sic* ; the word is omitted from 25,184 and Harl.

⁵ The words *et heir* are omitted from Harl.

⁶ The words *charger ne* are omitted from Harl.

⁷ 25,184, *demurgeast* ; Harl., *demurust*.

⁸ L., *W. Thorpe*.

⁹ *pleynt* is omitted from L.

¹⁰ *de is* from T. alone.

¹¹ L., *sire J.* ; 16,560, *sire J.* ; the words are omitted from T. and 25,184.

¹² The words between brackets are omitted from 25,184.

¹³ 25,184, *daltre*, instead of *enaltre*.

¹⁴ L., *maner* ; the word is omitted from 16,560.

¹⁵ L., *auntor* ; 16,560, *auctor*.

¹⁶ The passage between brackets is omitted from Harl. in this place, but occurs below, near the end of the report. See p. 341, n. 1.

Nos. 21, 22. .

A.D. 1342. charged, if he were tenant, by avowry, and by assise, with the rent, notwithstanding his nonage.—HILLARY. He shall not have his age, and therefore let him be summoned.—*Quære* more below.

Note. (21.) § Note that, on a writ of Covenant brought by two in common, the defendant, to whom the right was acknowledged, rendered by moieties severally to each of the two for himself for their lives, remainder over, by *Gaynesford*.

*Scire
facias.*

(22.) § *Scire facias* was sued upon a fine, against a man and his wife, and the inquest was joined between the demandant and them. At *Nisi Prius* the husband came and said that his wife was dead. The default was recorded, but the statement of the husband could not be recorded. And now the husband came into the Bench, and alleged the same thing.—*Blaykeston*. We pray execution, because that which he alleges does not lie in his mouth.—*Thorpe*. If I were to allege that my wife had been eloiigned by him, he would be put to answer that; so in this case.—*Kelshulle*. In that case he could not have any other answer; but in this case, if what you say is true, the judgment would be error in fact, which you could reverse.—*Thorpe*. It is mischievous and unreasonable.—And afterwards came another collaterally, and said that the husband and his wife, as in right of the wife, held the same tenements, and that the wife was dead, and that the husband held by the curtesy of England, and that the right had descended to himself as

Nos. 21, 22.

serroit charge, sil fut tenant, par avowere, et par assise, A.D. 1342. de la rente, *non obstante* soun noun age.¹—HILL.² Il navera pas soun age, et pur ceo soit somons.—*Quære plus infra.*³

(21.)⁴ § *Nota* qe sour bref de Covenant porte en comune par deux qe le defendant, a qi le dreit⁵ fut conu, rendit par moites severalment a chesqun deux a per luy pur lour vies, et le remeyndre outre, par *Gayn*. *Nota.*
[Fitz.,
Fyns, 7.]

(22.)⁶ § *Scire facias* fut suy hors dun fyn, vers un homme et sa femme, et lenqueste joint entre le demandant et eux. Al *Nisi prius* le baroun vynt et dit qe sa femme fut mort. La defaute recorde, mes le dit le baroun ne poet estre recorde. Et ore le baroun vynt en Baunk, et alleggea mesme la chose.—*Bluk*.⁸ Nous prioms execucion, qar ceo qil allegge⁹ ne gist pas en sa bouche.—*Thorpe*. Si joo alleggeasse qe ma femme fut esloigne par luy, il serroit mys a ceo respondre; auxi en ceo cas.—*KELS*. La ne pout il aver altre respons; mes en ceo cas, si vous dies¹⁰ verite, le jugement serra erreur de fait, quel vous poez reverser.—*Thorpe*. Cest¹¹ meschief, et encountre resoun.—Et puis vynt un altre de coste, et dit qe le baroun et sa femme, come du dreit la femme, tindrent¹² mesmes les tenementz, et la femme est morte, et le baroun tient par la ley¹³ Dengleterre, et le *Scire facias.*
[Fitz.,
Scire facias, 6.]

¹ The passage above omitted from Harl. (note¹⁴) is here inserted.

² Harl., *Thorpe*.

³ The last sentence is omitted from L. and Harl. The case is probably that of Thomas de Esture v. John de Sandhurst, which is entered among the *Placita de Banco* of Michaelmas Term, 16 Edw. III., Ro. 119d, but which, as there appears, was not brought to a conclusion until Easter Term in the 18th year.

⁴ From T., L., 16,560, 25,184, and Harl.

⁵ L., dreyn.

⁶ From T., L., 16,560, 25,184, and Harl.

⁷ 16,560, Execucion, instead of *Scire facias*.

⁸ T., *Gayn*.

⁹ L., il instead of ceo qil allegge.

¹⁰ Harl., veez.

¹¹ T., Et ceste; 16,560, ceo; Harl., cel.

¹² L., tenderent.

¹³ T., cortesie.

No. 23.

A.D. 1342. son and heir, and thus that the right was in him; and he came before judgment, and prayed to be admitted.—*Blaykeston*. He supposes by his prayer that she, against whom the writ is brought, is dead, which is in abatement of the writ; judgment, and we pray execution.—*HILLARY*. If you have execution, he loses his reversion; wherefore, &c.—And the husband was throughout continuing to proffer himself, and to tender the averment, as above.—And the Justice before whom the *Nisi Prius* was granted recorded that the husband in the country came and tendered the same averment.—*SHARDELOWE*. Before we can say anything about him who prays to be admitted, it is proper to deliver the husband. Shew why he shall not have the averment, since it is not his fault that his wife did not come, if she be dead, and on his day that he had by *Nisi Prius* he did all that he could do.—*Blaykeston*. If she be dead, let her husband have recovery by writ of Error, for if he were to have the averment it would be a bad example, because after the inquest shall have been pending for two or three years he might make default, and his wife, if she be alive, would come and be admitted.—*SHARSHULLE*. That is true; but nevertheless, if in truth she be dead, it would be against law and reason that you should have execution.—*Thorpe*. We shall not have a writ of Error on a judgment given against us in respect of our tenancy which we claim by the curtesy of England, but we shall be put to a writ on the Statute.¹—*SHARSHULLE* put the demandant's attorney to answer whether the woman was dead or living; and he said that he did not know.—*SHARSHULLE* (to the tenant). Go; Adieu, &c.

Account
against
bailiff.

(23.) § Account, in respect of the time during which the defendant was the plaintiff's bailiff in the 10th year.—*Thorpe*. We were his bailiff in the 7th year, at which

¹ 13 Edw. I. (Westm. 2), c. 31.

No. 23.

dreit est descendu a luy come a fitz et heir, issint est le A.D. 1342.
 dreit en luy ; et il est venu avant lagarde et pria destre
 resceu.—*Blaik*. Il suppose par sa priere qe cele vers qi
 le bref est porte est morte, qest a labatement de bref ;
 jugement, et prioms execucion.—*HILL*. Si vous eiez exe-
 cucion, il perde sa reversion ; par quei, &c.—Et le baroun
 tut temps se profri, et tendi laverement *ut supra*.—Et
 le Justice devant qi *Nisi prius* fut graunte recorda qe le
 baroun en pais vint et tendist mesme laverement.—
SCHARD. Devant qe nous parleroms rien de celui qe
 prie destre resceu, il covient deliverer le baroun. Mous-
 trez par quei il navera pas laverement, quant ceo nest
 pas sa defaute qe sa femme ne vint pas, si ele soit ¹ morte,
 et il fist a soun jour qil avoit par ² *Nisi prius* quant qil
 pout faire.—*Blaik*. Si ele soit morte, eit soun baroun ³
 recoverer par bref derroure, ⁴ qar sil eit laverement ceo
 serreit malveis ensample, qar apres ceo qe lenqueste
 avera pendu deux aunz ou trois, il freit defaute, et vendra
 sa femme, si ele soit en vie, et serra resceu.—*SCHAR*.
 Cest verite ; mes nepurquant si de verite ele soit morte,
 ceo serroit countre ley et resoun qe vous ussetz ⁵ execu-
 cion.—*Thorpe*. Nous naveroms pas bref derroure de
 jugement rendu countre nous de nostre tenance qe nous
 clamoms par ley Dengleterre, mes serroms mys a bref
 sur statut.—*SCHAR*. mist lattourne le demandant de
 respondre si la femme fut mort ou en vie ; et il dit qil ne
 savoit.—*SCHAR*. al tenant. Alez ; a ⁷ Dieu, ⁸ &c.

(23.) ⁹ § Acompte, de temps qil fut soun baillif lan Acompte
 xme.—*Thorpe*. Nous fumes ¹⁰ soun baillif lan vij., a quel vers
 temps nous fumes deinz age, saunz ceo qe nous fumes bailiff.

¹ T., quant ele est, instead of si
 ele soit.

² T., al jour de, instead of a soun
 jour qil avoit par.

³ baroun is from 25,184 alone.

⁴ All the MSS. except L., errour,
 instead of bref derroure.

⁵ 25,184, eussez.

⁶ 25,184, vostre execucion.

⁷ 16,560 and Harl., en.

⁸ L. and T., Dieux.

⁹ From T., L., 25,284, and Harl.

¹⁰ L., serroms ; Harl., sumes.

No. 24.

A.D. 1342. time we under age, without this that we were afterwards his bailiff; judgment whether you can charge us in respect of that time.—*Derworthy*. He was our bailiff according to that which we suppose by our writ; ready, &c.—*Thorpe*. You shall not have a general averment, for in that way the jury would be misled, because enquiry shall not be had as to the time, but whether the defendant was the plaintiff's bailiff or not.—*Derworthy*. That is only a traverse of our count.—*SHARSHULLE* to *Thorpe*. The general issue will serve you well enough, for enquiry will be had whether the defendant was his bailiff at the time whereof he has counted or not; wherefore take the general issue.—And he did so.

Ravish-
ment of
Ward.

(24.) § Ravishment of Ward, against Saier de Ryche-ford; and the plaintiff had a simple writ, and counted that he was the assignee of the assignee of one A., of whom the infant's ancestor held by knight service, and in whose homage the ancestor died.—And exception was taken to the count, because the plaintiff counted simply that the ancestor held of A., when A. had only a term for life in the seignory.—And afterwards this was passed

No. 24.

puis soun baillif ; jugement si de cel temps nous puissez ¹ A.D. 1342. charger.—*Derworthi*. Il fut nostre baillif solonc ceo qe nous supposoms ² par nostre bref ; prest, &c.—*Thorpe*. Averement general naverez pas, qar issi serra pais avoegle, ³ qar homme nenquerra pas de ⁴ temps, mes le quel il fut soun baillif ou nient.—*Derworthi*. ⁵ Ceo nest forsque travers de nostre counte. ⁶—*SCHAR. a Thorpe*. ⁷ Lissue generale vous servira assetz, qar homme enquerra sil fut soun baillif a temps qil ad counte ou noun ; par quei pernez lissue general.—*Et ita fecit*. ⁸

(24.) ⁹ Ravissement de Garde, vers Saier de Rycheford ; ¹⁰ Ravissement de Garde. et le pleintif avoit simple bref, et counta coment il fut assigne daassigne dun A., de qi launcestre lenfant tint par service de chivalerie, et morust en son homage.—[Et le counte fut chalange], ¹¹ de ceo qil counta qil tint simplement de A., la ou il navoit qe terme de vie en la seig-

¹ L., pussoms.

² T., avoms suppose.

³ T., enveogle ; L., avogle.

⁴ L., en ; 25,184, de quel ; Harl., du.

⁵ L., *Thorpe*.

⁶ R. and Harl., compte.

⁷ L., Schar et ; the words are omitted from Harl.

⁸ Harl., *fuit*.

⁹ From the five MSS. as above, until otherwise stated, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., Ro. 190. It there appears that the action was brought by Robert de Hakebeche against Saier de Rycheford, in respect of the wardship of Thomas son and heir of Richard Fitz-Johan. The count or declaration was "quod, cum prædictus Robertus habuit custodiam heredis prædicti ex dimissione cujusdam Christianæ quæ fuit uxor Johannis Fitz Gilbert, quæ custodiam il-

" iam habuit ex dimissione cujusdam Margeriæ quæ fuit uxor Jordani Foliot, de qua quidem Margeria prædictus Ricardus pater, &c., tenuit duas acras terræ cum pertinentiis in Horyngtoft per homagium, fidelitatem, [&c.] . . . de quibus servitiis prædicta Margeria fuit seisisita per manus prædicti Ricardi patris, &c., ut per manus veri tenentis sui, &c., et obiit in homagio ipsius Margeriæ, prædictus Saierus prædictum heredem infra ætatem, &c., cujus maritadium ad ipsum Robertum ratione prædicta pertinet . . . apud Flete inventum rapuit et abduxit."

¹⁰ T., 16,560, and Harl., Serle de Rocheforde ; L., S. de R. ; 25,184, Serle de Rothelforde, instead of Saier de Rycheforde.

¹¹ The words between brackets are omitted from 25,184.

No. 24.

A.D. 1342. over.—And then exception was taken to the writ, because it was in simple form, and did not contain any mention of the particulars of the case.—This exception was not allowed.—Then *Thorpe* admitted that the infant's ancestor held of the plaintiff, and said that the infant was married on the tender of the plaintiff and with his assent, and remained in the company of the defendant; judgment, since he has had the profit of the wardship of the body, which is the marriage, whether the writ lie against him, for the word of the Statute is *maritagium*, in the singular number, &c.¹—

The
residue of
Ravish-
ment of
Ward :
Sayer de
Rycheford.

Pole. We do not admit that the infant was married by us, or that he remained with the defendant with our assent; but you see plainly that he has not denied that the

¹ 13 Edw. I. (Westm. 2), c. 35.

No. 24.

nurie.—Et puis ceo fut passe.—Et puis le bref chalange, A.D. 1342. de ceo qe ceo fut simple, et noun pas fesaunt¹ mencion de cas.—*Non allocatur*.—Puis *Thorpe* conust qe launcestre lenfaunt tint del pleyntif [et dit qe lenfaunt² fut marie al tendre le pleyntif]³ et par soun assent, et demora en la compaignie⁴ le defendaunt; jugement, del hure qil ad eu⁵ le profit de la garde du corps, qest le mariage, si vers luy le bref y gise, [qar lestatut dist *maritagium*, en le singuler nounbre, &c.]⁶—

Pole.⁷ Nous ne conissons pas qe lenfant fuit marie par nous, ne⁸ qil demura ove luy de nostre assent; mes vous veiez bien qil nad pas dedit qe la garde nappent a

Residuum
del ravisse-
ment :
Sarre de
Ryche-
ford.⁹

¹ Harl., avant.

² L., qil, instead of qe lenfant.

³ The words between brackets are omitted from 25,184.

⁴ L., compaignie.

⁵ 25,184, huy.

⁶ The words between brackets are omitted from all the MSS. of Y.B. except 25,184. According to the record the plea was as follows :—
" Quod prædictus Robertus actionem hujusmodi versus eum habere non debet, quia dicit quod prædictus Ricardus, pater prædicti heredis, tenuit de ipso Saiero duas acras terræ cum pertinentiis in Holbeche per servitium militare, et pro eo quod prædictus Ricardus pater, &c., sic tenuit partem terrarum de ipso Saiero, ut prædictum est, et aliam partem terrarum, &c., de prædicta Margeria, cujus statum prædictus Robertus habuit in custodia prædicta, concordatum erat inter ipsos Saierum et Robertum super sustentatione heredis prædicti, pro parvitate tenementorum prædictorum, quod idem heres per cer-

" tum tempus cum præfato Saiero sumptibus ipsius Saieri moraretur, et per aliud certum tempus cum præfato Roberto eodem modo moraretur, per quod heres prædictus prædicto die quo prædictus Robertus eidem Saiero imponit heredem prædictum rati-
" puisse cum eodem Saiero sic morabatur. Et dicit quod diu ante diem illum cuidam Katarinæ filie ipsius Roberti heredem illum maritavit. Et hoc paratus est verificare, &c. Et ex quo idem Robertus in narrando supponit ipsum Robertum esse perquisitorem de custodia heredis prædicti, &c., quod quidem perquisitum per maritagium prædictum sumpsit finalem effectum, petit judicium, &c."

⁷ This continuation of the case is from T. and 25,184 alone, in which MSS. it is separated from the commencement by sixty-one other cases. *Pole* is omitted from T.

⁸ MSS. of Y.B., Rocheford.

⁹ ne is omitted from 25,184.

No. 24.

A.D. 1342. wardship belongs to us, or that the infant is still under age, and his statement that we have had the profits of the marriage does not lie in the mouth of any one but the infant himself ; wherefore we demand judgment.--*Thorpe*. And we demand judgment, since you are a purchaser, and your purchase was vested and terminated when the infant was married (and this you do not deny), and thus he is in law out of wardship of any one ; judgment whether you can maintain the writ or action. —*Pole*. On a writ of Forfeiture of Marriage between the infant and us that would properly fall under discussion ; but you who claim nothing in the wardship can not allege this matter ; judgment, &c.—*Thorpe*. We have to rebut you, because you are a purchaser of the wardship, which is nothing else but the marriage, and that you have not denied that you had, and so you can not have any wardship beyond ; judgment.

No. 24.

nous, ne qe lenfaunt¹ nest unquore deinz age, et ceo qil A.D. 1342.
 parle qe nous avoms eu les profitz del mariage ne gist
 en altri bouche qe de lenfaunt mesme; par quei nous
 demandoms jugement.—*Thorpe*. Et nous jugement del
 houre qe vous estes purchaccour, et vostre purchace
 vestu² et termine qaunt lenfaunt fuit marie, quele chose
 vous ne dedites pas, et issi est il³ en ley hors de ches-
 cuny⁴ garde; jugement si le bref ou accion puisses
 mayntener.—*Pole*. A un bref de forfeiture⁵ de mariage
 entre lenfaunt et nous ceo chiet en debat proprement;
 mes vous qe rien ne clames en la garde ne poez cele⁶ chose
 allegger; jugement,⁷ &c.—*Thorpe*. Nous sumes de vous
 reboter,⁸ qar vous estes purchaceour de la garde, qe nest
 altre chose forsque le mariage, quele vous navez pas dedit
 qe vous navez, issint ne poez plus avant⁹ garde aver;
 jugement.¹⁰

¹ The words ne qe lenfaunt are omitted from 25,184.

² T., vestit.

³ il is omitted from T.

⁴ 25,184, chescun.

⁵ 25,184, forfaiture.

⁶ 25,184, tiele.

⁷ jugement is omitted from 25,184.

⁸ 25,184, rebote.

⁹ The words plus avant are omitted from 25,184.

¹⁰ The proceedings subsequent to the plea are represented in the record as follows:—"Et Robertus, " non cognoscendo prædictum Ricardum patrem, &c., aliqua tementa tenere de præfato Saiero " per servitium militare, nec aliquam concordiam per quam heres " prædictus cum præfato Saiero " aliquo tempore moraretur, dicit " quod ex quo prædictus Saierus " expresse cognovit ipsum Robertum seiscitum fuisse de custodia

" heredis prædicti in forma prædicta, per quod maritagium ejusdem heredis ad ipsum pertinere debet usque ad legitimam ætatem " heredis illius, &c., et non dedit ipsum heredem infra ætatem extitisse die quo idem Robertus " supponit ipsum Saierum heredem prædictum rapuisse, nec aliquod " jus in persona sua affirmat de " maritagio heredis prædicti, &c., " nec hujusmodi placitum quod " idem Saierus in respondendo " allegat ei competere debet in hac " parte, petit judicium, &c."

A day was then given to the parties, "de audiendo judicio suo."

After several adjournments the parties appeared, "et prædictus " Saierus dicit, ut prius, quod prædictus Robertus maritavit prædictum heredem Katarinæ filiæ suæ, et sic habuit proffecum " maritagii sui, et hoc paratus est " verificare si, &c., unde petit ju-

Nos. 25, 26.

A.D. 1342. (25.) § Account. The defendant had a day now by
 Account. mainprise after Exigent. And a Protection *quia profec-*
turus est was produced for him.—*Thorpe*. An essoin as
 on the King's service does not lie for him when he is
 on mainprise, nor consequently does a Protection.—HIL-
 LARY. That does not follow.—*Thorpe*. If he had
 remained in custody without mainprise, the Protection
 would not lie; and even though he be delivered to main-
 pernors, he is, in a manner, in custody of the Court.—
 HILLARY. If he had remained in custody he could not
 have gone upon the King's service; but now, perhaps, he
 has gone; and he can not lawfully be outlawed when he
 has a Protection.—*Thorpe*. If the Protection be allowed,
 we lose all our process of Exigent, because if the parol be
 without day, he will be resummoned, and be essoined,
 and there will be all the process anew.—SHARSHULLE.
 That is true; there is a mischief.—And afterwards the
 Protection was allowed by judgment, &c.

Dower. (26.) § On a writ of Dower the heir of the husband
 was vouched in the same county in which the writ was
 brought, and in a foreign county; and the vouchee
 came and denied the deed of his ancestor by which he
 was now supposed to be bound to warranty. And it was
 adjudged that the demandant should recover against the

Nos. 25, 26.

(25.)¹ § Acompte. Le defendant avoit jour ore par maynprise apres exigende. Et proteccion *quia profecturus est* fut mys avant pur luy.—*Thorpe*. Essone de² service le Roi ne gist pas³ pur luy la ou il est par maynprise, *nec per consequens* proteccion.—*HILL*. *Non sequitur*.—*Thorpe*. Sil ust demure en garde saunz maynprise, proteccion ne girreit pas; et tut soit il baille a maynpernours en manere il est en garde⁴ de Court.—*HILL*. [Sil ust demure en garde, il ne puit⁵ aver ale en service le Roi; mes ore par cas il est ale; et homme nel poet pas par ley]⁶ utlager quant il ad proteccion.—*Thorpe*. Si la proteccion soit alowe, nous perdons tut nostre proces del exigende, qar si la parole soit saunz jour, il serra resomons, et essone,⁷ et tut novel proces.—*SCHAR*. Il est verite; cest meschief.—Et puis la proteccion fut alowe par agarde, &c.

A.D. 1342.
Acompte.
[Fitz.,
Proteccion,
47.]

(26.)⁸ § En bref de⁹ Dowere leir le baroun¹⁰ fut vouché en mesme le counte ou le bref fuit¹¹ porte, et en forein¹² counte¹³; et le vouché vint et dedit le fait soun auncestre par quel il serroit lie ore a la garrantie. Et fuit agarde qe la demandante recoverast vers le tenant

Dowere.
[Fitz.,
Dowere,
60.]

"dicium si actionem versus eum
"habere debeat ad recuperandum
"damna, &c."

The judgment was, "Et quia
"prædictus Robertus non dedicit
"quin ipse habuit maritagium præ-
"dicti heredis, videtur Curie quod
"non esset juri consonum quod, ex
"quo ipse habuit maritagium præ-
"dictum quod ipse similiter recu-
"peraret damna, &c., qui sic ha-
"beret duplum proficuum, consider-
"atum est quod prædictus Saierus
"cat inde sine die, et prædictus Ro-
"bertus nihil capiat per breve
"suum."

¹ From the five MSS. as above.

² T., pur.

³ Harl., nest ne gist, instead of
ne gist pas.

⁴ L., 16,560, and Harl., gardeyn,
instead of en garde.

⁵ Harl., poez.

⁶ The words between brackets are
omitted from 25, 184.

⁷ The words et essone are omitted
from L.

⁸ From the five MSS. as above.

⁹ The words en bref de are from
L. alone.

¹⁰ T., baroun la femme.

¹¹ All the MSS., except T., est.

¹² Harl., forine.

¹³ counte is omitted from L.

No. 27.

A.D. 1342. tenant immediately, without waiting until the averment had passed between the tenant and the vouchee.

Dower. (27.) § Dower, against the guardian of the land and of the heir of one J. The demand was for a moiety.—*Rokele*. Judgment of the writ; he supposes us to be guardian of all the heir's land; we tell you that others—and he named them with certainty—hold part of his inheritance in wardship.—*Thorpe*. What of that? Perhaps it descended through a different ancestor, and we have no action in respect of it; besides, no other writ is given in this case.—*SHARSHVILLE*. Upon a voucher all the guardians would be named, and there your exception would lie, but not upon an original writ; for one shall not have a writ in the words *præcipe custodi quarundam terrarum*, or *partis terrarum heredis*, &c.—*Rokele*. Then we tell you that we have only wardship in socage, because the lands are socage, in which case the writ lies against the heir himself, and not against us; judgment of the writ.—And because the demandant did not deny this, *KELSHULLE*, in the absence of his companions, their assent not being asked, abated the writ—(therefore *Quære*)—and the amercement was pardoned because the demandant was under age.

No. 27.

tantost, saunz attendre ¹ tange laverement fut passe entre A.D. 1342.
le tenant et le vouche.

(27.)² § Dowere vers gardeyn de la terre et de ³ leir Dowere.
[Fits.,
Briefs,
657.]
un J. La demande fut de la moite.—*Rokel.* Jugement
de bref; il nous ⁴ suppose gardeyn de tote la terre leir; ⁵
nous vous dioms qe altres, et les noma en certeyn,
tenent ⁶ partie de soun heritage en garde—*Thorpe.* De
ceo quei? ⁷ Par cas est descendu par autre ⁸ auncestre
de quei nous navoms pas accion; ovesqe ceo, altre bref
nest done en ceo cas.—*SCHAR.* En un vouchier touz les
gardeins serrount nomes, et la girreit vostre chalange,
mes noun pas a un original; qar homme navera pas bref
Præcipe custodi quarundam terrarum nec partis ter-
rarum heredis, ⁹ &c.—*Rokel.* Donques vous dioms qe
nous navoms forsqe garde en socage, qar les terres sont
socage,¹⁰ en quel cas le bref gist vers leir mesme, et noun
pas vers nous; jugement du bref.—Et pur ceo que la
demandante nel dedit pas, *KELS,*¹¹ *in absentia soci-*
orum, eorum ¹² *assensu non requisito*, abatist le bref—
(*Quære ergo*)—et lamericiement ¹³ perdone pur ceo qe la
demandante fut deinz age.

¹ 16,560, attendre.

² From the five MSS., as above.

³ de is from L. alone.

⁴ L., vous.

⁵ L., et leir.

⁶ T., tignent; Harl., tiennent.

⁷ L., quei de ceo, instead of de
ceo quei.

⁸ T., daltre, instead of par autre.

⁹ L., *heredum*.

¹⁰ 25,184, socages.

¹¹ L., *Rokel*.

¹² All the MSS. except T., *suo-*
rum.

¹³ L., 16,560, and Harl., lavere-
ment.

No. 28.

A.D. 1342. (28.) § John, son of Thomas Cotes, in Trinity Term
Scire last, rendered by fine certain tenements, and granted
facias, ad a certain reversion also, by the same fine, to his uncle,
audiendum upon the note of which fine a *Quid juris clamat*
Errorres, was sued and is pending. And John, son of Thomas,
 upon the tenour of a note of a Fine. making a suggestion that he was still under age, had a writ to the Justices of the Common Bench to send a transcript of the note into the Chancery, and it came there by virtue of that writ, and then it was sent into the King's Bench to be reversed; and thereupon John prayed a *Scire facias ad audiendum errores*.—SCOT. This is only a transcript, and not a record; wherefore, as it seems, a *Scire facias* cannot be granted upon it.—

No. 28.

(28.)¹ § Johan, le fitz Thomas Cotes,² terme de la A.D. 1342. Trinite darreyn, rendist par fyn certein tenementz, et graunta certein reversion auxi, par mesme la fyn, a son uncle, hors de quele note *Quid juris clamat* est suy et pent.⁴ Et Johan, fitz Thomas, fesaunt suggestion qil est deinz age unquore, avoit bref as Justices de Comune Baunk de maunder transcript⁵ de la note en Chauncellerie, et illoeqs vint par cel bref, et puis est maunde en Baunk le Roi pur estre reverse; hors de quei Johan pria *Scire facias* doier errour.—SCOT. Ceo nest forsque transcript⁵ et noun pas record; par quei homme ne poet, a ceo qe semble, graunter *Scire facias* hors de

Scire facias hors de la tenur de un note pur oyer erreurs.²

¹ From the five MSS. as above, but corrected by the record, *Placita coram Rege*, Mich. 16 Edw. III., Ro. 165. There appears enrolled a *Mittimus* sending into the King's Bench out of the Chancery, "teno-
" rem notæ ejusdam finis
" inter Johannem filium Roberti
" de Cotes de Ravenesrodde que-
" rentem, et Johannem filium Tho-
" mas de Cotes de Ravenesrodde de-
" forciantem," John son of Tho-
" mas having alleged "ipsum, tem-
" pore levationis notæ prædictæ,
" infra ætatem fuisse, et adhuc ex-
" istere, sique Curiam nostram
" prædictam in levatione ejusdem
" notæ deceptam fuisse." This is dated the 18th of October in the 16th year of the reign. There is also an enrolment of a writ of *Certiorari* dated the 17th of the same month, directed to William de Herleston, the King's "Capitali Clerico de Banco" to send "transcriptum notæ finis prædicti" into the Chancery. The transcript is also enrolled, which contains a mention, *inter alia*, of a grant of the following reversion (probably

that mentioned in the report):—
" Et præterea idem Johannes filius
" Thomæ concessit pro se et here-
" dibus suis quod unum mesuagi-
" um cum pertinentiis in prædicta
" villa de Eboraco quod Margareta
" quæ fuit uxor Nicholai de Lange-
" tone senioris tenuit ad terminum
" vitæ, et quod unum mesuagium
" et novem solidatæ redditus cum
" pertinentiis in eadem villa quæ
" Elena quæ fuit uxor Petri de
" Appilby tenuit in dotem de here-
" ditate prædicti Johannis filii
" Thomæ die quo hæc concordia
" facta fuit, et quæ post decessum
" ipsarum Margarete et Elene ad
" prædictum Johannem filium
" Thomæ et heredes suos debue-
" runt reverti, post decessum ipso-
" rum Margarete et Elene, integre
" remaneant prædicto Johanni filio
" Roberti et heredibus suis."

² The marginal note is from T. In L. and 16,560 the words are Note reverse; in 25,184, *Nota*; and in Harl., *Traversee*.

³ L., *Setes*.

⁴ Harl., *pendi*.

⁵ 16,560 and 25,184, *transcript*.

No. 29.

A.D. 1342. *Pole*. One will cause to come out of the Treasury a transcript only of the foot of a fine, and upon that the plaintiff will have a *Scire facias* to put the fine in execution.—SCOT. There the record remains good; but if the intention were that the fine should be reversed, one would cause the foot of the fine to come.—*Pole*. It may be so; but you can not do so in this case, because the fine is not engrossed, nor can it be until the tenants have attorned; and if the note were caused to come here and were to be affirmed, the note would be never engrossed, for you of this Court shall never make process by the *Quid juris clamat*, nor can you in this Court engross the fine if it be affirmed.—PARNING. That is true; and therefore it is reasonable that a *Scire facias* should be granted now, and that when the proceedings have gone so far that the note is perchance on the point of being reversed, the Court should then send for the note and reverse it; and if be affirmed, then nothing is lost to the party, for then his process is continued in the Common Bench.—And so it was done.—And afterwards the party came and took exception, as above, that the writ had issued without warrant, because a Justice of the Bench should always send the record, although it was not for reversal; consequently when nothing is sent to you but the transcript it is not such a record as can warrant this writ, &c.

*Quare
impedit.*

(29.) § The King brought a *Quare impedit* against

No. 29.

cel.¹—*Pole*. Homme ferra² venir hors de Tresorie forsque A.D. 1342.
transcript³ del⁴ pee dun fyn, et hors de cel¹ avera
le pleyntif *Scire facias* de mettre en execucion.—SCOT
La demura le record bon ; mes si la fyn fut a reverser
homme freit venir pee de la fyn.—*Pole*. Poet estre ;
mes ceo ne poez pas en ceo cas, qar la fyn nest pas en-
grosse, ne ne poet estre tanqe les tenantz soient attournes ;
et si la note fut fait venir ycy et fut afferme, la note
serra jammes engrosse, qar vous de ceste place ne⁵ ferrez
jammes⁶ proces par *Quid juris clamat* [ne vous ne poez
ceinz engrosser la fyn si ele soit⁷ afferme],⁸—PAR. Cest
verite ; et pur ceo il est resoun qe *Scire facias* soit
graunte a ore, et quant est taunt ale qe par cas la note
est a reverser, donques mander pur la note et la re-
verser ;⁹ et si ele soit afferme donques rien depiert a
partie, qar donques soun proces est continue en Comune
Baunk.—*Et ita factum est*.—Et puis vint la partie et
challengea, *ut supra*, qe¹⁰ le bref est issu¹¹ saunz garraunt,
qar Justice de Comune¹² Baunk maundereit touz jours
record, mesqe ceo ne fut pas a reverser ; *per consequens*
quant rien vous est maunde forsque transcript,³ ceo nest
pas tiel record qe¹⁰ purra garrantir ceo bref, &c.¹³

(29.)¹⁴ § Le Roi porta *Quare impedit* vers Labbe de *Quare impedit*.

¹ T., dycel, instead of de cel.

² L., purra.

³ 16,560 and 25,184, transescript.

⁴ Harl., dul.

⁵ ne is omitted from all the MSS. except T.

⁶ All the MSS. except T., pas.

⁷ T., sil fut, instead of si ele soit.

⁸ The words between brackets are omitted from L., 16,560, and Harl.

⁹ L., reversion.

¹⁰ L., qar.

¹¹ L., 16,560, and Harl., issi.

¹² T., and 25,184, da, instead of de Comune.

¹³ The record among the *Placita coram Rege* ends with the enrolment of the transcript, no further process apparently having been held to have rightly issued from the King's Bench.

¹⁴ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., Ro. 233d. It there appears that the action was brought by the King against the Abbot of Cirencester, in respect of a presentation to the church of St. John the Baptist of Cirencester.

No. 29.

A.D. 1842. the Abbot of Cirencester, in respect of the church of St. John of Cirencester.—*Pole*. We tell you that the Abbot and his predecessors, from time whereof there is no memory, have held the church to their own use, without this that Master Walter de Pont Evesque was admitted by the Bishop upon the presentation by King John as the King supposes.—*Thorpe*. These are several pleas; one is plenarty from all time, which is a plea to the action, as to the right, to bar the King, if such an exception can hold good against him; and the other is a traverse to the King's title in possession, against which the King would be admitted immediately to another possessory writ and count.—*SHARSHULL*. What he says as to plenarty is not his answer, but to shew his right, and the rest, which traverses the title, is the answer; for he might have to say that the person whom the King supposes to have been admitted on presentation by King John was admitted on presentation by the Abbot's predecessor, without this that he was admitted on the King's presentation; and the statement which he made as to the presentation by his predecessor would not be for an issue, but in order to show his right, and upon that to have a writ to the Bishop in case the issue were found in his favour; so it is in this case, although he shows his right, because otherwise it would be understood that he would claim only a presentation, unless he made the matter clear; yet this is not and cannot be an issue.—*W. Thorpe*. Suppose he were to say that King Henry gave him the advowson, and to make *profert* of a charter to that effect, and were to say further "without this that King John's presentee was admitted," would he

No. 29.

Oyrencestre,¹ del eglise Seint Johan de Cyrencestre.¹— A.D. 1342.

Pole. Nous vous dioms qe Labbe et ses predecessours, de temps dount memorie nest, ount tenu leglise en proprio oeps, saunz ceo qe Maistre Wauter ² de Pont Evesqe fut resceu del Evesqe al presentement le Roi Johan solonc ceo qe le Roi ³ suppose.—*Thorpe.* Ces sont divers plees; un est la plenerete de tout temps, quel est plee en dreit al accion a forclore le Roi, si tiele excepcion purra tener lieu countre luy; ⁴ et lautre est a travers le tittle le Roi en possession, countre quel le Roi serroit resceu tantost a altre bref et counte ⁵ de possession.—*SCHAR.* Ceo qil parle de plenerete ceo nest pas soun respons, mes de moustrer soun dreit, et le remenant qe traverse le tittle ceo est le respons; qar il averoit a dire qe celui qe le Roi suppose estre resceu al presentement le Roi Johan fut resceu al presentement [soun predecessour, saunz ceo qil fut resceu al presentement] ⁶ le Roi; et ceo qil parleroit del presentement soun ⁷ predecessour ⁸ ne serra pas issue, mes pur ⁹ moustrer soun dreit, [et sur ceo avoir bref al Evesqe en cas qe lissu fut trove pur lui; auxi est il en ceo cas, tut mustre il soun dreit], ¹⁰ pur ceo qe autrement homme entendreit qil clamereit forsqe presentement, sil ne desclarreit; ¹¹ unquore ceo nest pas ne poet estre issue.—*W.*¹² *Thorpe.* Jeo pose qil deist qe le Roi H. luy dona lavoweson, et mist avant chartre de ceo, et deist outre saunz ceo qe le presente le Roi Johan fut

¹ T., Cicestre; L., C.; 16,560 and 25,184, Circestre.

² T. and 25,184, B.; the other MSS. of Y.B. nostre auncestre, which, upon comparison with the record, appears to be a corruption of the reading given in the text.

³ 25,184, bref.

⁴ T., ley; L., lun.

⁵ The words et counte are omitted from L.

⁶ The words between brackets are omitted from Harl.

⁷ L., le.

⁸ The words soun predecessour are omitted from 25,184.

⁹ T., de.

¹⁰ The words between brackets are omitted from T.

¹¹ Harl., nel deschargereit, instead of ne desclarreit.

¹² W. is omitted from all the MSS. but L. and Harl.

No. 29.

A.D. 1342. have both averments?—as meaning to say that he would not—nor can he in this case.—SHARSHULLE. The case is not similar.—PARNING. Although it may be that alleged plenarty is not a plea against the King, where he claims in right of another person, yet, perhaps, it is where he claims in right of his Crown, inasmuch as it will put him to a Writ of Right like any common person; still this plenarty alleged from all time is to the King's action, both as to the right and as to the possession; for, if there had not been any presentation since time of memory, he would therefore be without an action.—SHARSHULLE. Not so; for if the King had recovered a presentation, since time of memory, although without any other possession, that would be a title; witness the case of the Earl of Pembroke.¹—*Thorpe*. There the writ abated, and he was put to a *Scire facias*.—See that writ by which he had execution, Michaelmas term, in the 15th year of King Edward the father, &c.

¹ Y.B., M. 15 Edw. II., fo. 444.

No. 29.

resceu, averoit il les deux? *quasi diceret non; neque hic*.¹—SCHAR. *Non est simile*.—PARN. Tut soit il qe la plenerete allegge nest pas plee devers le Roi, [la ou il cleyme en altri dreit],² il est per cas la ou il cleyme del dreit de sa corone, pur tant³ qe ceo luy mettra al bref de dreit come altre homme de poeple; unquore ceste plenerete allegge de tut temps est al accion le Roi et en dreit et en possession; qar sil y avoit nul presentement puis temps de memorie,⁴ *ergo* saunz accion.—SCHAR. Noun est; qar si le Roi ust recoveri puis temps de memore⁴ un presentement, tut saunz altre possession, ceo serroit title: *teste*⁵ le Counte de Penbroke.—Thorpe. La abati le bref, et il fuit mys a *Scire facias*.—[*Vide illud breve*, par quel il avoit execucion, *M.*]⁶ *anno xv*⁷ *Regis E. patris, &c.*⁸

¹ L. and 16,560, *sic*.

² The words between brackets are omitted from all the MSS. except 25,184.

³ All the MSS. except 25,184, *ceo*.

⁴ Harl., *memoire*.

⁵ L., *qe*; 16,560, *quel*.

⁶ The words between brackets are from 25,184 alone.

⁷ T., *xiii*].

⁸ 25,184, *numc*. The last sentence is omitted from all the MSS. except T. and 25,184.

The declaration, as it appears in the record, was simply to the effect that King John was seised of the advowson, and presented Master Walter de Pounteveske, who, on his presentation, was admitted and instituted. The descent is traced from King John to King Edward III., "et ea ratione ad ipsum dominum Regem ad prædictam ecclesiam pertinet presentare."

The plea was "quod prædictus

"Magister Walterus de Pounteveske non fuit admissus et institutus in ecclesiam prædictam ad præsentationem prædicti J. quondam Regis, &c."

After several adjournments the King's Writ close, dated the 20th of September in the 17th year of the reign, was sent to the Justices of the Common Bench directing them to stay proceedings, because he had by charter granted to the Abbot and Convent that they should hold the church in *proprie usus*. *Profert* was made of the charter (of the same date) in which it appears that the King had been given to understand that the Abbot and Convent had always held the church with the chapels of Bandyntone, Wyggewolde, and Saint Cecilia, in *proprie usus*, since the foundation of the Abbey, which was beyond the time of memory, "ac Hospitalia Sancti Johannis et Sancti Laurentii in dicta villa de

Nos. 30, 31.

A.D. 1342. (30.) § Note that a husband and his wife, who came
 Note: by *Quid juris clamat*, rendered to the plaintiff, and the
Quid wife confessed and was examined, and the render was
Juris accepted.
clamat.

Note. (31.) § Note that a Formedon abated, after view, for
 false Latin.

“ Cirencestre, quæ pro sustentati-
 “ one pauperum fundata fuerunt, et
 “ quæ de eleemosynis ipsorum Ab-
 “ batis et Conventus sustentantur,
 “ in quibus quidem Hospitalibus
 “ iidem Abbas et Conventus et
 “ eorum prædecessores custodes,
 “ prout eis licuit, posuerunt sive
 “ deputaverunt, ac ipsos custodes,
 “ quotiens indigebat ex causis ra-
 “ tionabilibus, amoveri fecerunt, ac
 “ boscum de Okleye semper hac-
 “ tenus a tempore foundationis Ab-
 “ batum prædictæ, absque hoc quod
 “ idem boscus infra metas seu
 “ bundas forestæ nostræ extitit,
 “ seu adhuc existit, tenuerunt, et
 “ dominus Ricardus quondam Rex
 “ Angliæ progenitor noster per
 “ chartam suam dedisset et con-
 “ cessisset tunc Abbati et Conventui
 “ loci prædicti manerium de Ciren-
 “ cestre cum pertinentiis, simul cum
 “ septem Hundredis et omnibus
 “ aliis ad ea pertinentibus, in puram
 “ et perpetuam eleemosynam, red-
 “ dendo inde ad Scaccarium suum
 “ et heredum suorum triginta
 “ libras, et dominus Johannes du-
 “ dum Rex Angliæ progenitor
 “ noster donationem et concessio-
 “ nem per prædictam Regem Ri-
 “ cardum sic factas per chartam
 “ suam postmodum confirmasset,
 “ quorum quidem donationis, con-
 “ cessionis, et confirmationis præ-
 “ textu, dicti Abbas et Conventus

“ et eorum prædecessores semper
 “ hactenus, a tempore confectionis
 “ chartarum et confirmationis præ-
 “ dictarum, villas de Cirencestre et
 “ Mynty, quæ faciunt manerium de
 “ Cyrencestre, tenuerunt, et visum
 “ franci plegii, retorna brevium,
 “ infangenethef, ac custodiam pri-
 “ sonum infra villas et hundreda
 “ prædicta, tanquam pertinentia ad
 “ dicta septem Hundreda, de quibus
 “ dictæ villæ de Cirencestre et
 “ Mynty sunt sicut unum hundre-
 “ dum, hactenus habuerunt, ac
 “ etiam prædicti Abbas et Con-
 “ ventus et prædecessores sui te-
 “ nentes suos in dictis villis de
 “ Cirencestre et Minti, sicut te-
 “ nentes de antiquo dominico,
 “ quando nos vel progenitores
 “ nostri Burgos et dominica nostra
 “ fecimus talliari, fecerunt talliari,
 “ ipsique duo mercato singulis
 “ septimanis per dies Lunæ et
 “ Veneris in prædicta villa de
 “ Cirencestre habuerunt, et ratio-
 “ nabile theoloneam infra eandem
 “ villam per totam septimanam de
 “ omnimodis mercandisiis ibidem
 “ mercandisatis hucusque a tem-
 “ pore prædicto percipere et habere
 “ consueverunt, nihilominus præ-
 “ dicti nunc Abbas et Conventus,
 “ tam super præmissis et quibusdam
 “ præmissorum, quam de eo quod
 “ unus Burgus in Cirencestre in
 “ grosso per se habebatur, quem

Nos. 30, 31.

(30.)¹ § *Nota* qe le baroun et sa femme, qe vindrent A.D. 1342.
par *Quid juris clamat*, rendirent al pleintif, et la *Nota* :
femme confes et examine, et le rendre accepte.³ *Quid*
Juris
*clamat.*³

(31.)¹ § *Nota* qun forme de doun abatist, apres la *[Fitz.*
viewe, pur faux Latyn.⁴ *Quid*
Juris
clamat,
24.]

" iidem Abbas et Conventus et
" predecessores sui super nos et
" progenitores nostros ex purpres-
" tura sine waranto occupare de-
" buerant, virtute ejusdam præ-
" sentationis coram nobis in Can-
" cellaria nostra, ac diversorum
" aliorum præsentationum et accu-
" sationum nuper inde factarum,
" ac inquisitionum et processuum
" super his coram Roberto Par-
" nyng nuper Cancellario nostro
" factorum et continuatorum in
" diversis placeis nostris, impetiti,
" implacitati multipliciter sunt, et
" inquietati, super quo iidem Abbas
" et Conventus nobis supplicarunt
" ut eis de remedio congruo in hac
" parte providere faciamus, Nos ob
" devotionem quam ad gloriosam
" Virginem Mariam, in ejus ho-
" nore Abbacia prædicta per pro-
" genitores nostros fundata fuit et
" dotata, gerimus et habemus, nec-
" non per finem trescentarum li-
" brarum quem iidem Abbas et
" Conventus fecerunt nobiscum,
" volentes eis in hac parte gratiam
" facere specialem, concessimus pro
" nobis et heredibus nostris et hac
" charta confirmavimus dilectis no-
" bis in Christo nunc Abbati et
" Conventui loci prædicti quod ipsi
" et successores sui in perpetuum
" habeant et teneant prædictam
" ecclesiam Sancti Johannis Bap-
" tiste, una cum prædictis capellis
" de Bandyntone, et Wyggewolde,

" et Sanctæ Cæcilie in propriis
" usus, ac prædicta Hospitalia Santi
" Johannis et Sancti Laurentii cum
" pertinentiis, nec non custodiam et
" dispositionem eorundem Hospi-
" talium pro suo libito voluntatis,
" ac dictum boscum suum de Ok-
" leye extra bundas forestæ nostræ,
" et etiam prædictam villam de
" Cirencestre integre, absque eo
" quod ipsi pro aliquo Burgo de
" cætero in Cirencestre per nos vel
" heredes nostros aliquallyter impe-
" tiantur, ac prædictam villam de
" Mynty cum pertinentiis, simul
" cum prædictis septem Hundredis
" cum omnibus ad ea spectantibus
" sive pertinentibus, in puram et
" perpetuam eleemosynam, red-
" dendo inde nobis per annum ad
" Scaccarium nostrum et heredum
" nostrorum triginta libras, et etiam
" quod habeant in prædictis villis
" et hundredis visum franciplegii,
" retorna brevium, [&c., as above]."
Thereupon judgment was given
for the Abbot.

¹ From the five MSS. as above.

² The words *Quid juris clamat*
are from 25,184 alone, from which
MS. the word *Nota* is omitted.

³ In 25,184 is added the sentence:
" *Concordat infra M. xvij. dunc*
" *homme et sa femme, de Bede-*
" *forde, qe rendirent a Jonkyn*
" *Marchalle, &c.*"

⁴ In 25,184 is added the sentence:
Concordat in multis locis.

No. 32.

A.D. 1342.

*Cui in
vita.*

(32.) § *Cui in vita* against W. de Ros of Hamlake and his wife, in respect of lands in Butterwick.—After view *Blaykeston* said: In the same county there is a Butterwick without any addition, and a Butterwick with an addition; and we tell you that the tenements are in Butterwick with the addition; judgment of the writ.—*Pole*. By the view you have affirmed the writ.—*Blaykeston*. This exception arises from the view; wherefore the exception lies properly after the view.—*Pole*. Certainly not; for you have allowed that there is only one Butterwick in the county; for if there be two Butterwicks, there can not be one without an addition; and if you can by such a plea be admitted to plead to the abatement of the writ, and the truth be, in accordance with the common interpretation of terms, that there is none without an addition, I could not by any plea maintain my writ, whereas you have accepted it as good.—*SHARSHULLE*. That argument has no force, if the writ be bad; and, because you do not deny that the tenements are in another vill, take nothing, &c.

No. 32.

(32.)¹ § *Cui in vita* vers W. de Ros de Hamelake, et sa femme, en Butterwike.—Après la viewe, *Blaik*. En mesme le counte il y ad B. saunz adjeccion, et B. ove adjeccion; et vous dionis qe les tenementz sont en B. ove adjeccion; jugement du bref.—*Pole*. Par la viewe vous avez afferme le bref.—*Blaik*. Cele chalenge vient de la viewe; par quei apres viewe proprement le chalenge gist.—*Pole*. Nanyl certes; qar vous avez accepte qil y ad en le counte forsque une Butterwike; qar² si deux Butterwikes y soyent nul poet estre saunz adjeccion; et si³ vous purrez par tiel plee avener de pleder al abatement du bref, et la verite soit tiele come comune entente doune qe nul soit saunz adjeccion, jeo ne puis par nule plee meyntener mon bref, la ou vous lavez accepte bon.—*SCHAR*. De⁴ ceo ny ad force, si le bref soit malveis;⁵ et, pur ceo qe vous ne dedites pas les tenementz estre⁶ en autre ville, preignez rien,⁷ &c.

A.D. 1342.

*Cui in
vita.
[Fitz.
Briefs,
659.]*

¹ From the five MSS. as above, but compared with the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 154d. It there appears that the action was brought by Matilda late wife of John de Byston against several tenants of lands in Freston and Butterwick (Lincolnshire), amongst whom were William de Ros, of Hamelake, and Margery his wife. Their plea was "quod in prædicto comitatu habetur quedam villa vocata Boterwyk, sine adjectione, et quedam villa vocata Boterwyk juxta Frestone. Et dicunt quod prædicta tenementa versus eos petita sunt in Boterwyk juxta Frestone, et non in Boterwyk sine adjectione. . . .

"Et Matildis non potest hoc dedicere." Judgment was accordingly given for the tenants.

² L., *Quere*; 16,560 and Harl., *quare*.

³ L., *SCH*.

⁴ De is omitted from 25,184.

⁵ Harl., *abatu*; the word is omitted from L. and 16,560.

⁶ *estre* is omitted from L., 16,560, and Harl.

⁷ The words *preignes rien* are omitted from 25,184, the conclusion of the case in which MS. is: " &c. Et si tenementz en lune ville soient demandes come en lautre, apres la viewe le bref abaterra, &c."

No. 38.

A.D. 1342. (38.) § Trespass, in respect of certain thousands of herrings, and barrels of tar, in Wareham.—*Gaynesford* showed how the town of Poole is a town which is a Borough and Port, and how the Earl of Surrey is lord, and showed how he ought to have from all merchandise exposed for sale or unladen there a certain custom, and assigned with certainty how much for each thing separately according to its nature; and moreover he acknowledged on behalf of the defendant, as an officer of the Earl, the taking in the town of Poole for certain customs, and he stated with certainty how much, in lieu of distress, without this that he took in Wareham as the plaintiff complains.—*Derworthy*. Ready to maintain our plaint; for the traverse makes the issue, and the rest shall not be put to the jury.—*Gaynesford*. Yes it shall be.

No. 38.

(33.)¹ § Trespas, de certains² milliers³ de harangs, et barailles⁴ de tare, en Warham⁵.—*Gayn.* moustra coment la ville de la Pole est ville Burghe et Haven,⁶ et le Counte de Surrei il est seignur, et moustra coment il deit avoir de touz marchaundises mys a vent ou descharges illoeqes certeyne custume, et assigna⁷ en certeyn come bien de chesque chose en sa nature a per luy; et outre come ministre⁸ le Counte conust la prise en la ville de la Pole pur certeyn custume, et mist en certeyn combien, en lieu de destresse,⁹ saunz ceo qil le prist en Warham⁵ come il se pleynt.—*Derworthi.* Prest, &c., nostre pleynte; qar le travers fait lissue, et le remenant ne serra pas mys en liure.¹⁰—*Gayn.* Si serra.

A.D. 1342.

Trespas.

¹ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 164. It there appears that the action was brought by Richard Poppe, of Wareham, against Henry Dodde, Walter Wade, and others, in respect of a taking of four casks of wine, six barrels of tar, 12,000 herrings, and 80 salmon. All the other defendants pleaded the general issue, "Not Guilty," as did Dodde and Wade with respect to everything except the taking of two barrels of tar and 6,000 herrings. That they justified, as bailiffs of the Earl of Surrey, who, as lord of the vill of Poole ("De la Pole"), was said to have a prescriptive right to customs on wine, tar, and herrings unladen at the port or town. The replication (with protestation) on which issue was joined was as follows:—"Et prædictus Ricardus" ("non cognoscendo aliquem portum

"in villa prædicta de la Pole, nec prædictum Comitum aliquam libertatem habere) dicit quod prædicti Henricus et Walterus, simul, &c., prædictis die et anno, fecerunt eidem Ricardo prædictam transgressionem in prædicta villa de Warham, contra pacem Regis, prout idem Ricardus superius queritur." There is a similar case (though the parties are different) on R^o. 525d.

² L. and Harl., cc.

³ L., millyers; T. and 16,560, millers.

⁴ L., barails.

⁵ L., Shoram; the other MSS. of Y.B., Schoram.

⁶ L., hamel; Harl., aiven.

⁷ Harl., assone; 16,560, assomma.

⁸ L., mester; Harl., ministre ge.

⁹ L., la lieu demande, instead of en lieu de destresse.

¹⁰ Harl., lieure.

No. 34.

A.D. 1342.
Ejectment
from
Wardship.

(34.) § Humphrey de Bassingbourne brought a writ of Ejectment from Wardship against Nicholas Archer and others.—*Pole*. We tell you that the infant's ancestor held of Ralph Basset of Drayton certain tenements, whereof the tenements which he supposes to be holden of him are parcel, by knight service, as regardant to his manor of Olney, whereof Nicholas, against whom, &c., is his bailiff; and because the wardship belongs to his lord, he came by his lord's command and seized his lord's wardship; judgment whether the writ lies against him. And as to another of those named *Pole* demanded judgment of the count, because the plaintiff supposed that he was seised of the wardship from Easter until the feast of St. John, whereas we say that the infant's

No. 34.

(34.)¹ § Umfray de Bassingburne porta bref denget-
 tement² de garde vers N. Archer et altres.—*Pole.* Nous
 vous dioms qe launcestre lenfaunt tint de Rauf Basset
 de Draytone certeynz tenementz, dount les tenementz
 quels il suppose estre tenuz de luy sount parcele, par
 service de chivaler, come regardantz a son maner de O,³
 dount N. vers qi, &c., est soun baillif; et pur ceo qe⁴ la
 garde attient a son seignur, par comandement son
 seignur il vynt et seisi la garde son seignur; jugement
 si vers luy le bref gise.⁵ Et quant a un autre nome,⁶ il
 demande jugement de count, qar il suppose qil fut
 seisi de la garde de la Pasche⁷ tanqe⁸ le Feste de⁹ Seint
 Johan, ou nous dioms qe launcestre lenfaunt fut en vie

A.D. 1342.
 Engette-
 ment de
 Garde.

¹ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 300. It there appears that the action was brought by Humphrey de Bassingbourne against Nicholas le Archer and others, in respect of ejectment from the wardship of the land and heir of John de Lysours, who held a messuage and certain land of the plaintiff by knight service. All the defendants, except the one above named, traversed the ejectment alleged to have been committed by them, and issue was joined on their plea. Nicholas le Archer pleaded as bailiff of Ralph Basset of Drayton, "de quo quidem Radulfo prædictus Johannes de Lysours tenuit prædicta tenementa, simul cum aliis tenementis, ut de manerio suo de Olneye, per homagium [&c.] . . . et obiit in homagio ipsius Radulfi. Et dicit quod ipse Nicholaus, post mortem prædicti Johannis de Lysours, invenit prædictum heredem apud Hakelyngtone infra ætatem, &c., et per præceptum

" ejusdem Radulfi cepit prædictum heredem, &c., ut ballivus ejusdem Radulfi, prout ei bene licuit, &c." According to the record there was a replication on behalf of the plaintiff, repeating that John de Lysours held the messuage and land of him, and upon this issue was joined. A verdict was given at *Nisi prius* to the effect that the other defendants did not eject, that John de Lysours held the messuage and land of the plaintiff, and not of Ralph Basset, and that the plaintiff was in seisin of the wardship until ejected by Nicholas Archer; and the jury assessed the damages at 40s. Judgment was given for the plaintiff to recover the wardship and damages.

² L., de gettement.

³ MSS. of Y.B., W.

⁴ qe is omitted from L.

⁵ T., gist.

⁶ Harl., noun.

⁷ All the MSS. except T., Parke.

⁸ Harl., quant qe.

⁹ The words Feste de are omitted from all the MSS. except L.

No. 35.

A.D. 1342. ancestor was alive at Whitsuntide and afterwards.—*Thorpe*. That is tantamount to saying that we were not ejected as we suppose ; for, when his answer refers to one member of our count, the conclusion can only be taken as a traverse, as if he would say that were not seised ; from that it would follow that we were not ejected, and so it must be taken as a traverse to us ; and besides this, our action is taken from the time of the ejectment, and, even if we were only seised for a day, that is sufficient.—*SHARSHULLE*. But he proves that you could not have had the wardship at the time at which you suppose that you were seised ; wherefore that falsifies your count.—*Thorpe*. We do not take action with regard to the time at which we were seised, but with regard to the ejectment. And inasmuch as what he says can be taken only as by way of traverse to the writ, which we will maintain in case he would take the issue which the law allows, and this he will not do, but pleads collateral matter, which can not by law make an issue, judgment.—And *Pole* did not dare to abide judgment, and said : Not Guilty ; ready, &c.—And the other side said the contrary.—And note that *HILLARY* said that, if he had alleged that the ancestor was now living, he would have put the plaintiff to answer to that.

Ravish-
ment of
Ward.

(35.) § The same Humphrey brought a writ of

No. 35.

a la Pentecoste et apres.—*Thorpe*. Taunt amounte qe A.D. 1342. nous fumes pas engettes¹ come nous supposoms; qar quant soun respons refiert a un² membre de nostre counte, la conclusioun[ne poet estre pris forsqe a travers, come sil voleit dire qe nous]³ [ne fumes pas seisi; de ceo ensiwereit qe nous ne fumes pas⁴]⁵ [engette, et issi covendreit estre pris a travers de nous];⁶ et ovesqe ceo, nostre accion est pris de temps del engettement, et, mes qe nous fumes pas seisi forsqe par un jour, ceo suffit.—*SCHAR*. Mes il prove qe vous ne poetz aver garde al temps qe vous supposez estre seisi; par quei ceo fauxe vostre counte.—*Thorpe*. Le temps qe nous fumes seisi de ceo ne⁷ preignoms⁸ pas accion,⁹ mes¹⁰ del engettement. Et desicome ceo qil parle ne poet estre pris forsqe a travers del bref, quel nous voloms meyntener en cas¹¹ qil voleit prendre issue qe la ley voet, et ceo ne voet il pas, mes plede¹² en coste,¹³ que ne poet par ley faire issue, jugement.—Et *Pole* nosa demurer,¹⁴ et dit: De rien coupable; prest, &c.—*Et alii e contra*.—*Et nota HILL*. dit sil ust allegge la vie launcestre ore, il ust mys lo pleintif de respondre a ceo.

(35)¹⁵ § Mesme cestuy Umfray porta bref de ravise-

Ravise-
raent de
Garde.¹⁶

¹ Harl., enjettes.

² L., 16,560, and Harl., son.

³ The words between brackets are omitted from 25,184.

⁴ L., fumes, instead of ne fumes pas.

⁵ The words between brackets are omitted from 25,184 and Harl.

⁶ The words between brackets are omitted from Harl.

⁷ Harl., nous.

⁸ T., pernoms.

⁹ The words pas accion are omitted from L., 16,560, and Harl.

¹⁰ L., rien.

¹¹ The words en cas are omitted from L.

¹² L., 16,560, and Harl., primes pleder, instead of pas, mes plede.

¹³ 16,560 and 25,184, ceste.

¹⁴ 25,184, demorir.

¹⁵ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., Ro. 308d. The parties were the same as in the case next preceding, and the pleadings identical in substance, the ravishment of the ward being substituted for the ejectment from wardship. The value of the ward's marriage was found to be 10 marks, and the damages 60s., for which the plaintiff had judgment.

¹⁶ The words de Garde are from 25,184 alone.

No. 35.

A.D. 1342. Ravishment in respect of the same heir against Nicholas Archer.—*Pole*. We tell you that we do not admit that the plaintiff was seised, but we tell you, as above, that the ancestor held of Ralph Basset those lands and others by knight-service, as above, and the defendant, by command of his lord, as his lord's bailiff, came and seized the infant, without doing anything against the peace; judgment whether any tort, &c.—*Thorpe*. He does not deny that the infant's ancestor held of us, but says that he held of another, to which the law does not put us to answer any more than if this were a writ of Wardship; and he has acknowledged the ravishment as in the right of another who is not named; judgment, and we pray our damages.—*Pole*. Then it is so.—*Thorpe*. He pleads that the ancestor held of Ralph these lands and others, in which case although we could maintain that this land, as supposed by our count, is holden of us, still by reason of other lands, perhaps he would claim the wardship of the heir's body by priority; so his plea is double.—*Pole*. What we say as to other land is only a protestation.—*SHARDELOWE*. Answer.—*Thorpe*. The ancestor held of us; ready, &c.—*Pole*. He held of Ralph, and not of you; ready, &c.—And the other side said the contrary.—*Pole*. We pray aid of Ralph.—*Thorpe*. You are not as in a case of avowry, in which the fee of Ralph would be to be tried, because the issue serves only to try our fee and not the fee of Ralph.—*SHARDELOWE*. He had not the plea except by pleading as Ralph's bailiff.—*Thorpe*. But the issue is upon our

No. 35.

ment de mesme leir vers N. Archere.—*Pole*. Nous vous A.D. 1342. dioms qe nous conisoms pas qe¹ le pleintif fuit seisi, mes nous vous dioms, *ut supra*, qe launcestre tient de Rauf Basset celes terres, et altres par service de chivaler, *ut supra*, et par comandement² soun seignur, come soun³ baillif, vynt et seisist lenfaunt, saunz riens faire countre la pees;⁴ jugement⁵ si tort, &c.—*Thorpe*. Il ne dedit pas qe launcestre lenfaunt ne tynt de nous,⁶ mes⁷ parle qil tynt de altre, a quei ley ne nous mette a respondre plus qe ceo fuit bref de garde; et il ad conu le ravissement en le dreit daltre qe nest pas nome; jugement, et prioms nos damages.—*Pole*.⁸ Donques il est⁹ issi.—*Thorpe*. Il plede qil tynt de R. celes terres et altres, ou tut puissoms¹⁰ nous meyntener qe ceste terre suppose par nostre counte est¹¹ tenu de nous, unquore par resoun daltres terres par cas il clamereit la garde de soun corps par priorite; issi est soun plee double.—*Pole*. Ceo qe nous parloms de altre terre nest forsque protestacion.¹²—SCHARD. Respondez.—*Thorpe*. Launcestre tynt de nous; prest, &c.—*Pole*. De R.¹³ et noun pas de vous; prest, &c.—*Et alii e contra*.—*Pole*. Nous prioms eide de¹⁴ R.—*Thorpe*. Vous nestes pas com en cas davowere, ou ie fee R.¹⁵ serroit¹⁶ a trier,¹⁷ pur ceo qe lissue sert¹⁸ soulement de trier nostre¹⁹ fee et noun pas le fee R.—SCHARD. Il nad²⁰ pas le plee sil ne pleda come baillif R.—*Thorpe*.

¹ The words nous conisoms pas qe are omitted from L.

² 25,184, commission.

³ L. and 16,560, od; the word is omitted from Harl.

⁴ Harl., proces.

⁵ jugement is omitted from Harl.

⁶ L., vous.

⁷ mes is omitted from L.

⁸ *Pole* is omitted from L.

⁹ T., est il, instead of il est.

¹⁰ L., puissons.

¹¹ All the MSS. except Harl., estre.

¹² L., proteccion.

¹³ The words de R. are from T. alone.

¹⁴ 25,184, du.

¹⁵ L., Roy, instead of fee R.

¹⁶ L., soit.

¹⁷ Harl., arer, instead of a trier.

¹⁸ T., seert; 16,560 and Harl., soit; the word is omitted from L.

¹⁹ L., soit nostre.

²⁰ L., 16,560, and Harl., navera.

No. 36.

A.D. 1342. right and not upon the right of Ralph, &c.—And afterwards he was ousted from the aid.

Admission
to defend.

36. § *Præcipe quod reddat* against a man and his wife. They came and said that the wife had nothing; and the husband pleaded and afterwards made default. At the return of the *Petit Cape* the wife came and prayed to be admitted.—*R. Thorpe*. She has not a day in Court, and judgment is not to be given against her, for she has disclaimed; wherefore she is not admissible.—*W. Thorpe*. Judgment is always to be given against a person who is named in the writ, and her husband's disclaimer will not oust her from her freehold, and against the judgment, if it were given, she would never have an assise. And suppose that a writ is brought against two other persons, and that one disclaims, and the other pleads and loses, the judgment will be given against both equally, and that proves the law, for the judgment will bar both of them from an assise.—*R. Thorpe*. It will not be so; for the one will be barred only by his disclaimer; but in this case disclaimer by a *feme covert* will not bar her.—*SHARDELOWE*. If then the disclaimer will not bar the wife, or be prejudicial to her, therefore the disclaimer, which was wholly the act of her husband, does not oust her from being admitted. *HILLARY*. Let her be admitted.—And she vouched, &c.

No. 36.

Mes lissue est sur nostre dreit, [et noun pas sur le dreit A.D. 1342 . R., &c.]¹—Et puis il fuit ouste del eide.²

(36.)³ § *Præcipe quod reddat* vers un homme et sa femme. Ils vyndrent, et disoient qe la femme navoit rien; et le baroun pleda et puis fist defaute. Al petit *Cape* retourne la femme vynt et pria destre resceu.—*R. Thorpe*. Ele nad pas jour en Court, et jugement nest pas a rendre vers luy, qar ele ad desclame; par quei ele nest pas resceyvable.—[*W.*] *Thorpe*. Jugement est touz jours a faire vers cele qest nome el bref, et le desclamer soun baroun ne luy oustra pas de soun fraunc tenement, et countre le jugement, sil fut rendu, ele navera jammes assise. Et jeo pose qe bref soit porte vers deux altres, et lun desclame, et laltre plede et perde, le jugement se fra vers touz deux owelement, et ceo prove la ley, qar le jugement barrera lun et lautre dassise.—*R. Thorpe*. Noun serra; qar lun serra barre seulement par soun desclamer; [mes en ceo cas desclamer de femme coverte ne la barrera pas.—*SCHARD*. Si donques le desclamer]⁴ ne barrera pas, ne serra prejudiciel a la femme, *ergo*,⁵ le desclamer, qest tut le fait soun baroun, ne la ouste pas de la resceite.—*HILL*. Soit resceu.—Et ele voucha, &c.

¹ The words between brackets are omitted from 25,184.

² The last sentence is from 25,184 alone.

³ From the five MSS. as above.

⁴ T., *Præcipe quod reddat*.

⁵ The words between brackets are omitted from Harl.

⁶ The words *non obstante* are added after *ergo* in all the MSS. except T.

No. 37.

A.D. 1342. (37.) § Henry Haydoke, parson of the church of
Replevin. Eccleston, brought a Replevin in respect of his chattels,
to wit, two hatchets, against Margaret late wife of
Ranulph Dacre, and William de Walton, and John de
Crofte and Emma his wife,¹ and several others. —*Riche-*
mund. Margaret, William, and John, and Emma his
wife, as tenants in common of the wood of E.,² whereof
the place, &c., is parcel, avow for themselves and for the
others, that is to say Margaret as tenant of a moiety,
William as tenant of two parts of the other moiety, and
John and Emma his wife as tenants of the third part of
the same moiety as the dower of Emma, for the reason
that they found the plaintiff's people cutting billets and
branches in the same wood, so they took the hatchets,
and avow as in a case of *damage feasant* in their several
wood.—*Moubray*. First of all by the avowry it is
supposed that they hold the wood in common, and after-
wards when they declare their tenancy, the matter
proves that their tenancy cannot be in common; for a
woman who is tenant in dower can not hold in common
with the person to whom the reversion belongs, nor with

¹ The names are those which appear in the record. See p. 377, note 1.

² See p. 377, note 1.

No. 37.

(37.)¹ § Henre Haydoke, persone del eglise de Ecclestone,³ porta *Replegiari* de ses chateux,⁴ saver⁵ ij haches,⁶ vers Margarete qe fut la femme R.⁷ Dacre, et J. de W., et A. de B. et K. sa femme et plusours altres.—*Rich.* Margarete, J., et A. et K. sa femme, come tenantz en comune del bois de R., dount le lieu, &c., est parcele, avowent pur eux et pur les altres, saver Margarete come tenant de la moite, J. come tenant de deux parties de lautre moite, A. et K. sa femme come tenantz de la terce partie de mesme la moite come del dower K., par la resoun qils troverent les gentz le pleintif coupanz⁸ buche et braunches en mesme le bois, issint pristrent ils les haches, et avowent come en lour several bois damage fesaunt.—*Moubray.* Primes par lavowere est suppose qils tenent le bois en comune, et puis, quant ils desclarent⁹ lour tenance, la matere prove qe lour tenance ne poet pas estre comune; qar femme tenante en dower ne poet pas tener en comune¹⁰ ove celui a qi la reversion

A.D. 1342.
*Replegiari.*²
[Fitz.
Avowre,
91.]

¹ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 361. It there appears that the action was brought by Henry de Haydoke, parson of the church of Eccleston (Lancashire), against Margaret late wife of Ranulph de Dacre, William de Walton, John de Crofte and Emma his wife, with several others, in respect of a taking of two of the plaintiff's hatchets.

The avowry of the above-named defendants, on behalf of themselves and the others, was that the taking was in a wood called "Ecclestoneswode," which they held "in comuni, &c., et in separalitate, &c., videlicet prædicta Margareta medietatem ejusdem bosci, et Willelmus de Waltone duas partes alterius medietatis, et Jo-

hannes et Emma tertiam partem ejusdem medietatis nomine dotis ipsius Emmæ. Et dicunt quod ipsi . . . invenerunt prædictum Henricum succidentum arbores in prædicto loco qui est parcella prædicti bosci, et damnum facientem, per quod ipsi ceperunt hacheas prædictas."

² L., Harl., and 16,560, Avowere.

³ T., Eglistone; L., Ecclestone; 16,560 and 25,184, Eglistone; Harl., Eglistone.

⁴ L., chateaux.

⁵ saver is omitted from T.

⁶ 25,184, vaches.

⁷ The words qe fuit la femme R. are omitted from L.

⁸ Harl., com pendantz; 16,560, come pernantz.

⁹ Harl., desclament.

¹⁰ T., dowerc.

No. 37.

A.D. 1342. other strangers any more; for one can not enfeof another to hold with himself in common, nor consequently endow.—*R. Thorpe*. I prove to you that a woman can hold her dower in common with others; for if two parceners hold a wood or waste in common, and one has a wife and dies, his heir, who holds in common with the other parcener, endows his mother, as she is dowable in the case on account of the several right which was in her husband. She can not be endowed of a certain parcel by itself, for that would be to endow her of another's freehold; wherefore she must hold her dower *per my et per tout* in common, although it may be that she holds by a several title; and it is the same in respect of a mill which parceners hold.—*Grene*. We think she cannot hold dower in common with others, that is the freehold, but she could, in virtue of certain and special matter, hold the profit and take it in common, and in that way they ought to avow on their case.—*Richemunde*. Although it may be that a separate writ, for the mischief of warranty, would lie against them, still they hold in common, for by assise by way of action they would recover in common.—*SHARDELOWE, ad idem*. You are a stranger, and this matter is not to the purpose except between themselves.—*Grene*. It is for the plaintiff to take exception to the avowry, for when they avow in common, I shall have ground to say that they hold in severalty, and this matter I have from them.—*HILLARY*. Plead something else.—*Moubray*. We tell you that H. has a messuage, which is his parsonage, and eight acres of land as the endowment of his church of

No. 37.

appent, ne ove lautre estraunge nient plus; qar homme A.D. 1342.
 ne poet feffer altre a tener ove luy mesme en comune,
nec per consequens dower.—*R. Thorpe*. Jeo vous prove
 qe femme poet tener en comune soun doweres ove altres;
 qar si deux parceners tenent¹ une bois ou un wast en
 comune, ou² lun ad femme et devie, soun heir, qe tient en
 comune ove lautre parcenere, dowe sa mere come ele est
 dowable en le cas pur le several dreit qe fut en soun
 baroun. Ele ne poet estre dowe de certeyne parcele a
 per luy, qar ceo serroit de la doweres dautri³ fraunctene-
 ment; par quei il covient qe ele tiegne soun doweres⁴
 par my et par tut en comune, tut soit ceo qe ele tiegne
 par several⁵ title; et auxi est il dun molyn qe parceners
 teignent.—*Grene*. Nous entendoms⁶ qe ele ne poet
 tener doweres en comune ove altres, saver le fraunctene-
 ment, mes ele pout, sur certeyne et especiala matere,
 tener le profit et prendre en comune, et par cele manere
 dussent il avower sur lour cas.—*Rich*.⁷ Tut soit ceo
 qe⁸ several⁹ bref, pur le meschief de garrantie, girreit
 vers eux, unquore ils tenent en comune, qar par assise
 par voie daccion il recovereint en comune.—*SCHARD*. *ad*
idem. Vous estes estraunge,¹⁰ et ceste chose nest pas a
 purpos forsque entre eux mesmes.—*Grene*. Cest al plain-
 tif a chalanger lavowere, qar quant ils avowent en
 comune, jeo averai a dire qil tenent en severalte, et ceste
 matere ay jeo¹¹ de eux.—*HILL*. Dites altre chose.—
Moubray. Nous vous dioms qe H. ad un mies, qest soun
 personage, et viij.¹² acres de terre el¹³ doweres de sa

¹ T., teignent; Harl., eyent.² ou is from Harl. alone.³ T., daltre; L., lautre; the other MSS., except 25,184, dautre.⁴ The words soun doweres are omitted from L.⁵ L., cele.⁶ L., ne tendoms.⁷ T., Sch.⁸ 25,184, par.⁹ Harl., general.¹⁰ The words estes estraunge are omitted from 25,184.¹¹ The words ay jeo are omitted from L.¹² T. x.; 25,184, ij.¹³ L., del.

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A.D. 1342. Eccleston, to which reasonable estovers are appendant, to wit for burning, building, and fencing, by view and delivery if a forester be ready there, &c., and if not, without delivery; and also he and his predecessors from all time have had timber in the same wood for the purpose of constructing and repairing the chancel of the same church; and because the forester would not deliver billets, &c., he came and cut, &c.; judgment, and we pray damages.—*Richemunde*. As to timber for his chancel, we do not admit that he has had such a profit in the wood, but you see plainly that he justifies his act as to the billets by way of appendancy; we say that neither he nor any of his predecessors had them except on

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eglise de E., a quei resonables¹ estovers sount appen- A.D. 1342.
dantz, saver dardre,² edifier, et enclore, par viewe et
livere si forester y soit prest, &c., et si noun saunz livere ;
et auxi luy et ses predeceessours de tut temps ount eu
meryme³ en le dit bois pur faire [et] reparailler⁴ le
chauncel de mesme leglise ; et pur ceo qe le forester ne
voleit pas liverer buche, &c., il vynt et coupa, &c. ; juge-
ment, et prioms damages.⁵—*Rich.* Quant a meryme son⁶
chauncel, nous conisoms pas qil ad eu tiel profit el boys,⁷
mes vous veiez bien coment il justifie son fait de buche
par voie dappendaunce ; nous dioms qil navoit ne nul
de ses predeceessours, &c., forsqe par suffraunce ; prest, &c.⁸

¹ L., recoverable.

² L., dardier.

³ 25,184, maeryn ; L., 16,560, and Harl., mayn.

⁴ L., reparalliere ; 16,560, repa-
riler ; 25,184, reparailler ; Harl.,
repeler.

⁵ The plea according to the record was "quod ipse habet in prædicta villa unum mesuagium, quod est personatus ejusdem ecclesie, et octo acras terre ad quas ipse habet housebote et hayebote ad arandum, edificandum, et claudendum, per visum forestarii si præmunitus fuerit et venire voluerit ad videndum, &c., et si præmunitus fuerit et venire noluerit, sine visu forestarii, &c., tanquam pertinentia ad tenementa sua prædicta, et sic ipse et omnes prædecessores sui, personæ ecclesie prædictæ, habuerunt a tempore quo non extat memoria, &c. Et dicit quod, quotiens opus fuit reparandi vel de novo construendi cancellam ecclesie sue prædictæ, ipse debet habere in eodem bosco arbores ad construendum vel reparandum

"cancellam prædictam. Et quia forestarius bosci prædicti præmunitus fuit per ipsum Henricum de veniendo, &c., et videndo, &c., venire noluit, &c., ipse Henricus arbores prædictas in prædicto bosco succidit."

⁶ T., al.

⁷ The words el boys are omitted from T. and 25,184.

⁸ The replication, according to the record was, "Et Margareta et alii, protestando, quod ipsi non cognoscunt quod prædictus Henricus habere debet in bosco prædicto arbores ad reparandum et construendum cancellam prædictam, . . . dicunt quod prædictus Henricus nec aliquis prædecessorum suorum, personarum ecclesie prædictæ, unquam seisiti fuerunt de prædictis housebote et hayebote in bosco prædicto, nisi ad voluntatem dominorum ejusdem bosci et non tanquam pertinentibus ad prædicta mesuagium et octo acras terræ." On this issue was joined. The verdict at *Nisi prius* was "quod nec prædictus Henricus nec aliquis præ-

No. 38.

A.D. 1342. sufferance ; ready, &c.—*Moubray*. Seised as appendant ; ready, &c.—And the other side said the contrary.

Debt.

(38.) § John de Bodesham, saddler, of London, brought a writ of Debt against Robert Rose, brother and heir of William Rose, and counted by *Pulteney* that tortiously he detains from and does not render to the plaintiff £46 which he owes to the plaintiff, and tortiously for that William Rose, brother of this same Robert, whose heir he is, on a certain day, in a certain year, and at a certain place, granted that he had received from the aforesaid John £46 wherewith to make profit, and to render an account thereof on a certain day, with the profits arising in the mean-time, and undertook to pay to the said John, on the day specified, £46, and bound himself and his heirs and executors, &c. ; and on the appointed day John demanded the account, but William would not account ; and he also demanded the £46, and William would not pay ; and often afterwards in William's lifetime he demanded the £46, and William in his lifetime would not pay ; wherefore, after William's death, John came to Robert, as to William's brother and heir, and demanded his payment. Robert would not pay, nor yet will he, &c. And *Pulteney* made *profert* of a specialty in witness of the debt.—*Pole*. First he has counted of a debt, and when he ought to declare how it arose, he counts of an account ; and so it is repugnant ; judgment.

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—*Moubray*. Seisi com appendant ; prest, &c.—*Et alii* A.D. 1342.
e contra.

(38.)¹ § Johan de B., sadler, de Loundres, porta bref de Dette.²
 dette vers Robert Rose, frere et heir William Rose, et
 counta par *Pult.*³ qe atort luy detient et pas ne luy rend
 xlvjli. quex il luy deit, et pur ceo atort qe William Rose,
 frere mesme celuy R., qi heir il est, certeyn jour, an, et
 lieu, se graunta⁴ aver resceu del avant dit Johan xlvjli.
 pur profiter,⁵ et de ceo acompte rendre a un certeyn jour,⁶
 ove les profitz avenantz el mene temps, et graunta a
 paier al dit jour al dit Johan xlvjli., et obligea luy et ses
 heirs et ses executours, &c. ; a quel jour Johan demanda
 lacompte, et il acompter ne voleit, et auxi demanda les
 ditz xlvjli., et il paier ne voleit ; et puis sovent en sa vie
 les demanda, et il en sa vie paier ne voleit ; [par quei,
 apres sa mort, Johan vynt a R.,⁷ come a frere et heir, et
 demanda sa paye. Il payer ne voleit],⁸ ne unqore ne
 voet,⁹ &c. ; et mist avant especialte qe tesmoigna.—
Pole. Primes ad il counte dune dette, et quant il le deit
 desclarer¹⁰ coment, il counte dun acompte, et issi repug-

" decessorum suorum unquam sei-
 " siti fuerunt de estoveriis capiendis
 " in prædicto bosco tanquam perti-
 " nentibus ad tenementa sua præ-
 " dicta, sed dicunt quod omnia
 " estoveria quæ ceperunt in eodem
 " bosco ante tempora ista habue-
 " runt ex voluntate dominorum
 " villæ prædictæ qui pro tempore
 " fuerunt, et non tanquam perti-
 " nentia ad mesuagium suum quæ
 " dicitur rectoria sua." Judgment
 was accordingly given for the de-
 fendants.

¹ From the five MSS. as above,
 but corrected by the record, *Pla-
 cita de Banco*, Mich. 16 Edw. III.,
 Ro. 341d. It there appears that

the action was brought by John de
 Bodesham, citizen and saddler of
 London, against Robert Rose,
 brother and heir of William Rose,
 knight.

² 16,560, Rose.

³ Harl., *Pole*.

⁴ per scriptum suum concessisset
 in the record.

⁵ ad mercandizandum inde ad
 commodum ipsius Johannis in the
 record.

⁶ Harl., jour, an, et lieu.

⁷ MSS. of Y.B., W.

⁸ The words between brackets are
 omitted from T. and L.

⁹ Harl., voleit.

¹⁰ Harl., descharger.

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A.D. 1342. — *Pulteney*. We have counted on our deed, so that your exception comes down to the action.—*KELSHULLE*. Although, during his life, this was to be deraigned by way of account, the plaintiff cannot, after his death, have an action for what he owed except by way of Debt.—*Pole*. We take the exception only to the declaration, and if you adjudge it to be good, we are ready to answer.—*SHARDELOWE*. Answer, for it seems to us that the declaration is good, and if the testator were alive the plaintiff could on this deed elect an action either by way of Account or by way of Debt.—*Pole*. Judgment of the writ; for the writ is in the words *quas debet*, whereas against heirs and executors it should be only in the word *detinet*.—*Pult*. It is not so; against executors it is *detinet* only, and against heirs it is *debet et detinet*, &c.—*Pole*. We tell you that Robert has nothing by descent in fee simple, nor had he anything on the day of the purchase of the writ, from his brother William; ready, &c.—*Pult*. You have assets by descent in fee simple of which you were seised on the day of the purchase of the writ; ready, &c.—*Pole*. We have not, neither had we, on the day of the purchase of the writ, anything by descent in fee simple; ready, &c.—*Thorpe*. We do not attach any weight to the question whether you have now, or had on the day of the purchase of the writ, anything by descent; but we demand judgment, since you do not deny that you had by descent after the death of your ancestor lands in fee simple of which you were seised on the day of the purchase of the writ, whether notwithstanding the averment which you have offered, you shall not be charged: for we think that, although you may have changed your estate into one in

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nant; jugement.—*Pult.* Nous avoms counte sur nostre fait, issi qe vostre chalange descent al accion.—*Kels.* Tut fuit ceo a derener par voie dacompte en sa vie, ceo qil devoit apres sa mort il ne poet aver accion forsque par voie de dette.—*Pole.* Nous pernomms la excepcion¹ forsque a la moustraunce, et si vous agardez le pur bon prest sumes a respondra.—*SCHARD.* Responez, qar nous semble qe la demonstraunce² est bone; et si le testatour fut en vie il eslirreit³ par ceo fait accion par voie dacompte ou de dette.—*Pole.* Jugement du bref; qar le bref voet *quas debet*, ou vers heirs et executours il ne serreit forsque *detinet*.⁴—*Pult.* *Non est ita*; vers executours *detinet tantum*, et vers heirs *debet et detinet*, &c.—*Pole.*⁵ Nous vous dioms qe Robert nad rien par descente en fee simple [ne navoit jour de bref purchase, de par William soun frere; prest, &c.—*Pult.*⁶ Vous avez assetz par descente en fee simple],⁶ de quei vous fuistes seisi jour de bref purchase; prest, &c.—*Pole.* Nous navoms [ne avioms rien, jour du bref purchase,]⁷ par descente en fee simple;⁸ prest, &c.—*Thorpe.* Le quel vous avez par descente ore, ou jour de bref purchase nous chargeoms⁹ pas; mes nous demandoms jugement, del houre qe vous ne dedites pas qe vous navez par descente apres la mort vostre auncestre de fee simple, de quei vous fuistes seisi jour de bref purchase, si, noun countresteaunt laverement qe vous avez tendu, vous ne serrez charge; qar nous entendoms qe, tut avez chaunge¹⁰ vostre estat en taille

A.D. 1342.

¹ The words *la excepcion* are omitted from 25,184.

² L., 16,560, and 25,184, *moustrance*.

³ L., *liroit*; Harl., *elirrit*.

⁴ L., *de touz*.

⁵ The words above respectively attributed to Pole and Pulteney practically agree with the plea and replication in the roll.

⁶ The words between brackets are omitted from L.

⁷ The words between brackets are omitted from 25,184.

⁸ The words *en fee simple* are omitted from L.

⁹ L., *chargeroms*.

¹⁰ L. and 16,560, *charge*.

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A.D. 1342. tail or for life, still you shall be charged.—*Pole*. And we demand judgment since you refuse the averment, &c.
 —*Rokele*. We have not, neither had we on the day of the purchase of the writ anything which descended to us in fee simple; ready, &c.—*Pulteney*. That issue is double; one is perchance that nothing over descended to you in fee simple; the other is perchance admitting that a fee simple descended to you, but that you are not, and were not, on the day of the purchase of the writ, seised thereof; and the Court ought not to enquire of both.—*Rokele*. I have traversed you as largely as you have charged me, and you refuse the averment; judgment.
 —*SHARSHULLE*. The Court can not enquire of both; and you must plead either in law or in fact.—*Rokele*. I am not seised nor was I on the day of the purchase of the writ seised of that which descended to me in fee simple; ready, &c.—*Pulteney*. Then we take it to be on record that he admits that assets did descend to him in fee simple, and if he will have it so, we will abide judgment.—And afterwards the parties came to terms.

Writ of
Account.

(39.) § John brought a writ of Account against Benet Shippewright. After the Exigent the Sheriff returned that B. had surrendered, and that he would send the body. And B. came and proffered himself, and prayed that the plaintiff might count against him.—*Rokele*. We do not admit that the person who proffers himself is

No. 39.

ou terme de vie, qe unqore vous serrez charge.—*Pole*. A.D. 1342.
 Et nous demandoms jugement del houre qe vous refusez laverement, &c.—*Rokel*. Nous navoms, ne navioms¹ jour de bref purchase, rien qe nous descendi [en fee simple; prest, &c.—*Pult*. Cele issue est double; un qe par cas qe unqes rien vous descendi en fee simple; altre est par cas conissaunt qe fee simple vous descendi],² mes vous nestes pas, ne fuistes jour de bref purchase, seisi de cel; et Court ne dust pas enquere de lun et lautre.—*Rokel*.³ Jeo vous ay traverse si largement come vous mavez charge, quel laverement vous refusez; jugement.—*SCHAR*. Court⁴ ne poet pas enquere⁵ de lun et lautre, et ou il covient qe vous pledez ou en ley ou en fait.—*Rokel*.⁶ Jeo ne su⁷ pas seisi, ne fu⁸ jour de bref purchase, de ceo qe moy descendi en fee simple; prest, &c.—*Pult*. Donqes pernomes nous record qil conust qe assotz luy descendist en fee simple, et, sil voet issi, nous demuromes en jugement.—Et puis les parties acorderent, &c.⁹

(39.)¹⁰ § Johan porta bref dacompte vers Benet Shippewright.¹¹ Apres Exigende¹² le Vicounte retourna qe B. savoit rendu, et qil maundereit le corps. Et B. vint et se profri et pria qe le pleintif countast¹³ vers luy.—*Rokel*. Nous ne conissoms pas qe celui qe se

Bref de
Acompte.

¹ The words ne navioms are omitted from 25,184.

² The words between brackets are omitted from Harl.

³ T., 25,184, and Harl., *Thorpe*.

⁴ L. and Harl., *Homme*.

⁵ Harl., *aver enquest*.

⁶ The words attributed to Rokele practically agree with the rejoinder on the roll, with which the record ends.

⁷ L., *se*; Harl., *sui*.

⁸ Harl., *fui*.

⁹ Between this case (38) and the next (39), the following passage is

inserted in 16,560:—"In Crastino
 " Animarum Adam Bret, Petrus de
 " Richemunde, Thomas Setone,
 " Johannes Moubray, Willelmus
 " de Nottone, Henricus Grene, et
 " Johannes Pulteneye dederunt
 " aurum, xvj^o anno."

¹⁰ From the five MSS. as above.

¹¹ T., Schipwrithe; L., Scilipwir-
 ighte; 16,560, Shepwrighte; Harl.,
 Schiparight.

¹² The words Apres Exigende are omitted from L., 16,560, and Harl.

¹³ Harl., *counstat*.

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A.D. 1342. known by such name, and we tell you that the person against whom we bring our writ is a different person, and is the father of him who proffers himself, and the father ought not to change his name for that of his son ; wherefore we pray that the Sheriff may be amerced, and we pray an *Allocatur Exigent*.—*Thorpe*. He does not deny that the person who proffers himself is Benet le Shippewright, and he says that it is a different person against whom his writ is brought, and he does not assign any difference between the two by his writ ; judgment of the writ.—*Pulteney*. If they were two brothers, then it would be necessary to assign a difference in their names, by the words the elder and the younger, but the father is not taken for his son. And suppose that he were bound by a specialty by such name as the writ purports, it would be necessary that he should be named in accordance with the specialty.—*Thorpe*. It would not be so in this case, in which the Exigent lies ; but on a writ of Debt and other writs upon which the defendant would not be outlawed perhaps it would be so ; for otherwise whichever of them he pleased would be taken or outlawed.—*SCHARDELOWE*. You cannot have any process continued further against Benet Shippewright, since he is taken and comes here in custody.—*STONORE*. He is not in custody in the Fleet, and we wish to know by what process he is now here.—And *STONORE* caused the messenger of the Sheriff to be called, by whom the Sheriff returned that he would send the defendant's body hither. And the messenger was called and he was not in Court.—*STONORE*. Now he has not either come by the Sheriff, or surrendered in this Court ; and he comes and proffers himself in order to abate the plaintiff's writ when he is not a party ; wherefore, Warden of the Fleet, take him into your custody.—*Thorpe*. He cannot do so although the person who brought him hither in custody will not appear ; and now he is in your custody ;

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profre soit conu par tiel noun, et vous dioms qe celui A.D. 1342.
 vers qi nous portoms nostre bref est altre persone, et est
 pere a cesty qe se profre, et pere pur soun fitz ne deit
 pas chaunger soun noun; par quei nous prioms qe le
 Vicounte soit amercie, et *Exigas allocatis comitatibus*
 —*Thorpe*. Il ne dedit pas qe cesty qe se profre nest
 Benet le Shippewright, et dit qe cest altre persone vers
 qi soun bref est porte, et ne donne pas diversite par soun
 bref entre les deux; jugement du bref.—*Pult*. Sils
 fuissent deux freres, la covendreit doner diversite de
 noun par eisme¹ et puisne, mes le pere nient pur soun
 fitz. Et jeo pose qil fut oblige par tiel noun come le
 bref voet et par especialte, il covendreit qil fut nome
 acordaunt al especialte.—*Thorpe*. Noun serroit [en ceo
 cas ou exigende gist, mes en bref de Dette,² et altres
 brefs ou le defendant ne serroit pas utlage],³ par cas il
 serroit issi; qar autrement qi qil vodreit deux serroit
 pris ou utlage.—*SCHARD*. Vous ne poez⁴ aver nul proces
 continue plus avant vers Benet Shippewright, del houre
 qil est⁵ pris et vient en garde cy.—*STON*. Il nest pas
 en garde de Flete, et nous voloms saver par quel proces
 il est ore ycy.—Et fist demaunder le messenger le
 Vicounte, par qui le Vicounte retourna qil maundereit
 soun corps ycy. Et il fut demaunde et ne fut pas en
 Court.—*STON*. Ore nest il venuz ne par Vicounte ne se
 est rendu en ceste place; et vient et se profre pur abatre
 le bref le pleyntif ou il nest pas partie;⁶ par quei,⁷ Gar-
 deyn de Flete, pernez garde de luy.—*Thorpe*. Il ne
 poet, mes mesqe soun gardeyn qe luy mena⁸ cy ne voet
 pas apparer; et ore est il en vostre garde; par quei ore

¹ T. and 25,184, eigne.² 25,184, Dreit.³ The words between brackets are omitted from L.⁴ Harl., nous ne pooms, instead of vous ne poez.⁵ 25,184, ad.⁶ The words ou il nest pas partie are omitted from T. and L.⁷ The words par quei are omitted from L.⁸ T., mesna.

No 40.

A.D. 1342. wherefore now he demands judgment of the writ.—
STONORE. He is in custody by reason of his own default.—And then HILLARY said: We hold that the Sheriff is charged with his body; and because the Sheriff does not produce him, the Sheriff shall be amerced, and the person who is in custody shall be delivered.

Avowry. (40.) § Avowry, for the reason that Manger and Isabel his wife held, as in right of Isabel, of the avowant by homage, &c.; from Isabel the descent was to A. and B.¹ as two daughters; from B. her purparty descended to I,¹ the plaintiff's wife, between whom and A.¹ partition was made, so that a moiety was allotted to I whereof the place where the taking, &c.; and between I.

¹ For the real names and persons, see p. 391, note 4.

No. 40.

il demande jugement du bref.—STON. Il est¹ en garde A.D. 1342.
pur sa defaute.²—Et puis HILL. Nous tenoms le
Vicounte charge de son corps; et pur ceo qil nel ad³
pus, le Vicounte serra en la mercy, et cestuy delivers
qest en garde, &c.

(40.)⁴ § Avowerie par la resoun qe Mauger et Isabele Avowerie.
sa femme,⁵ come de dreit Isabele,⁶ tindrent de luy par
homage, &c.; de Isabele descendi⁷ a A. et B. come a
deux filles; de B. descendi sa purpartie [a I. femme le
pleyntif, entre qi et A. purpartie]⁸ se fist, issint qe la
moite fut allote al I., dount⁹ le lieu ou la prise, &c.;

¹ L., nest.

² L., 16,560, and Harl., desceite.

³ The words qil nel ad are omitted from Harl.

⁴ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich., 16 Edw. III., R^o. 628. It there appears that the action was brought by John Larcedekne, knight, against Henry de la Pomeray, knight, and others.

Henry's avowry was "quod quidam Maugerus de Sancto Albano et Isabella uxor ejus, ut de jure ejusdem Isabellæ, tenuerunt de eo duodecim mesuagia et duodecim ferlingos terræ cum pertinentiis in Hoo (Devon), unde prædictus locus in quo, &c., est parcella, per homagium, fidelitatem . . . et per servitium duodecim denariorum . . . annuatim solvendorum . . . De ipsa Isabella descendunt prædicta tenementa . . . quibusdam Isabella et Margaretæ ut filiabus et hereditibus, &c.; et de ipsa Margaretæ descendit jus propartis suæ cuidam Johanni de Vautort ut filio et heredi, &c.; et de prædicta Isabella descendit jus pro-

"partis suæ Cecilie nunc uxori prædicti Johannis Larcedekne, ut filius et heredi, &c.; inter quos Johannem de Vautort et Johannem Larcedekne et Ceciliam prædicta tenementa partita fuerunt, ita quod medietas eorundem tenementorum assignata fuit prædicto Johanni de Vautort, et alia medietas prædictis Johanni Larcedekne et Cecilie in partem ipsius Cecilie. Et quia, post prædictam purpartiam factam, homagium, fidelitas . . . et redditus prædicti per decem annos . . . eidem Henrico a retro fuerunt, pro homagio prædicto advocat prædictam captivum super ipsos Johannem Larcedekne et Ceciliam."

⁵ The word sa femme are omitted from L., 16,560, and Harl.

⁶ The words come de dreit Isabele are omitted from all the MSS except 16,560.

⁷ The words de Isabele descendi are omitted from 25,184.

⁸ The words between brackets are omitted from L.

⁹ L., devant.

No. 40.

A.D. 1342. and her husband there is issue ; and because a moiety of the rent and the homage were in arrear, he avowed for the homage upon them, &c.—*Pulteney*. Judgment of the avowry ; for he has avowed, by reason of the seisin of our ancestor, upon us as heir, and he has shewn that we have a co-heir, and he has not said that since the partition we separately attorned to him ; judgment.—This exception was not allowed.—*Pole*. We do not admit that the tenements are within his fee ; and whereas he avows upon us as heir of Isabel, we tell you that Mauger and Isabel purchased the tenements to hold to them and the heirs of Mauger, and so we are in as heirs of Mauger ; judgment of the avowry.—*Grene*. Then by this plea the seignory must be admitted by you, for you give us another avowry.—*Pulteney*. It will not be when I plead to the avowry.—*Grene*. We shall see that by and by ; and we tell you that Mauger and Isabel held of us as in right of Isabel ; ready, &c.—*Pulteney*. That is not a plea unless you say that Isabel had a fee.—*Grene*. Isabel had a fee ; ready, &c.—*Pulteney*. Isabel had only a term for life.—And the other side said the contrary.—And the plaintiff had aid of the wife, who was summoned.—And the protestation was not entered.

No. 40.

et entre I. et soun baroun y ad issue; et pur ceo¹ qe la A.D. 1342. moite de la rente et lomage fut arere, pur lomage il avowa sur eux, &c.—*Pult.* Jugement del avowerie; qar il ad avowe de la seisine nostre auncestre sour nous com heir, et il ad moustre qe nous avoms coheir, et il nad pas dit² qe puy³ la⁴ purpartie nous severalment attournasmes a luy; jugement.—*Non allocatur.*—*Pole.* Nous conissons pas qe les tenementz sount deinz soun fee; et la ou il avowe sour nous come heir Isabele, nous vous dioms qe M. et Isabele purchacerent⁵ les tenementz a eux et les heirs M., issi sumes einz come heir M.;⁶ jugement del avowerie.⁷—*Grene.* Donques par ceo plee la seignurie covient estre conu de vous, qar vous nous donez altre⁸ avowerie.—*Pult.* Noun⁹ serra quant jeo plede al avowerie.—*Grene.* Ceo verroms altrefoit; et vous dioms qe M. et Isabele tindrent de nous¹⁰ come de droit Isabele; prest, &c.—*Pult.* Ceo nest pas plee si vous ne diez qe Isabele avoit fee.—*Grene.* Isabele avoit fee; prest, &c.—*Pult.* Isabele navoit forsque terme de vie.—*Et alii e contra.*—*Et habuit auxilium de uxore, quæ summonita est.*—Et la protestacion¹¹ nest pas entre, &c.¹²

¹ T., puis, instead of pur ceo.

² L., dedit.

³ T., par; the word is omitted from all the other MSS. except Harl.

⁴ la is omitted from all the MSS. except. Harl.

⁵ L., purchassent.

⁶ The words issi sumes einz come heir M. are from 25,184 alone.

⁷ The plea according to the record was "quod prædicti Maugerus et Isabella, uxor ejus, perqui- siverunt prædicta tenementa ipsi Maugero et Isabella et heredibus ipsius Maugeri in perpetuum. Et sic dicit quod prædicta Isabella tem-

"pore mortis sue non habuit al-
"quem statum in eisdem tene-
"mentis nisi ad terminum vite
"sue tantum, unde petit judicium,
"&c."

⁸ L., ne devez, instead of nous donez altre.

⁹ Harl., ceo; L. and 16,560, ne.

¹⁰ L., vous.

¹¹ L. and 16,560, proteccion; Harl., proces.

¹² After the plea, the record con- tinues thus:—"Et Henricus dicit "quod prædicta Isabella anteces- "sor prædictæ Cecilie, tempore "mortis sue, habuit feodum in "prædictis tenementis." Issue was joined thereupon. Aid was then

No. 41.

A.D. 1842.

*Quare
impedit.*

(41.) § The King brought a *Quare impedit* against the Abbot of Robertsbridge, on the ground that the Abbot tortiously prevents him from presenting a fit person to the prebend of Salehurst, in his free chapel of Hastings, which is void and is of his donation, &c., and tortiously for this, that one A de B. was seised of the advowson, &c., in time of peace, and held it in chief of King Edward the grandfather, &c., and presented his clerk, &c., who was installed by command of the King, on his presentation, which A. aliened the advowson to the Abbot the predecessor, &c., in mortmain, without the King's license, wherefore the advowson devolved on the King; and the descent was made to the present King, and thus he is seised, and it belongs to him to present, &c.—*Pulteney*. You see plainly how the King has counted that it belongs to him to present to a prebend in his free chapel, whereas the free chapels of the King are exempt from the jurisdiction of the Ordinary, for the King shall give them, and on his command the donees shall be installed, and a presentation supposes that some person other than the presenter ought to make induction, for one can not present to himself, so this declaration is repugnant; judgment.—*Thorpe*. That is to the King's writ; and if you abate his writ, you oust him from action, for the words of his writ are *quod permittat presentare*, and one can not

No. 41.

(41.)¹ § Le Roi porta *Quare impedit* vers Labbe de Pount Robert, qe atort luy destourbe presenter covenable persone a la provandre de S.² en sa fraunche chapelle de Hastynges, qe voide est, et a sa donesoun³ appent, &c., et pur ceo atort, qun A. de B.⁴ fut seisi de lavoweson, &c., en temps de pees,⁵ et le tint en⁶ chief⁷ du Roi E. aiel⁸ &c., et presenta son clerk, &c., qe fut enstalle,⁹ par comandement le Roi, a son presentement, le quel A. aliena lavoweson al Abbe predecessour, &c., en mort mayn, saunz conge le Roi, par quei lavoweson fut devolut¹⁰ au Roi :—et fist la descente au Roi qe ore est :—et issi est il seisi et a luy appent a presenter, &c.—*Pult.*¹¹ Vous veiez bien coment le Roi ad counte qe a luy appent a presenter a une provandre en sa fraunche chapelle,¹² ou les fraunches chapelles le Roi sount exemptes de jurisdiction de Ordiner, qar le Roi les durra, et par son comaundement serrount installes,¹³ et presentement suppose qe altre qe le presentour deit faire induccion,¹⁴ qar homme ne poet presenter a luy mesme, issi ceste moustraunce repugnaunt ; jugement.—*Thorpe*. Cest al bref le Roi ; et si vous abatez son bref vous luy oustez daccion, qar soun¹⁵ bref voet *quod permittat*

A.D. 1342.

*Quare
impedit.*
[Fitz.
Briefs,
660.]

prayed and had of Cecillia, who did not appear on the day given; and John, having to answer alone, answered as before. The *Venire* was awarded, but the result is not shown.

¹ From the five MSS., as above, but corrected by the record, *Placita de Banco*, Mich., 16 Edw. III., Ro. 270d. It there appears that the action was brought by the King against the Abbot of Robertsbridge, in respect of a presentation to the prebend of Salherst (Salehurst) in the King's free chapel of Hastings.

² MSS. of Y.B., E.

³ Harl., donison.

⁴ William de Echyngham, according to the record.

⁵ The words *de pees* are omitted from L. and 25,184.

⁶ Harl., *de*.

⁷ L. and 16,560, *chivalerie*.

⁸ The record, *patria*.

⁹ Harl., *installe*.

¹⁰ Harl., *devolut*.

¹¹ 25,184, *Blak*.

¹² L., *Schapelle*.

¹³ L., *enstalle*.

¹⁴ L. and 16,560, *jurediccion*; 25,184, *jurisdiction*; Harl. *indiccion*.

¹⁵ L., 16,560, and Harl., *mon*.

No. 41.

A.D. 1342. have any other writ.—*Grene*. I shall bring a Formedon, and a gift shall be supposed by the writ, and yet I can count of a devise; and also if a Bishop, in his own diocese, where he can not present, but must give and make collation, be disturbed, he shall have a general writ, and shall count that it belongs to him to give or make collation.—*Pole, ad idem*. The words of the writ, which says *ad suam donationem spectat*, would warrant his count on his matter.—*Derworthy, ad idem*. It may be that he must first follow his writ by his count; but when afterwards he has made it clear by his matter that it belongs to him to collate, he ought at the end of his declaration to conclude that thus it belongs to him to make collation, and not to present.—*STONORE*. He must count, as well at the end as at the beginning, in accordance with his writ; and besides this, he claims through another who, as supposed, should present.—*Pulteney*. We tell you that the churches of A. and B. and E. constitute the prebend of Salehurst; and we tell you that the King, the present King's father,

No. 41.

presentare,¹ &c., et altre bref ne poet homme² aver.— A.D. 1342.

Grene. Jeo porterai forme de doun, et par bref serra suppose doun, et si puis jeo counter del devis; et auxi si un Evesqe, en sa diocise³ demene, la ou il ne poet presenter, mes covient doner et faire collacion, sil soit destourbe, il avera general bref, et countera qe a luy appent a doner ou faire collacion.—*Pole, ad idem.* La paroule du bref, qe dit *ad suam donationem* [*spectat*, garrauntereit soun counte sur sa matere].⁴—*Derworthi, ad idem.* Poet estre qil covent primes pursuir⁵ par counte le bref; mes quant apres⁶ il ad desclarre par sa matere qe a luy appent a faire collacion, il dust en la fyne de sa demoustraunce⁷ conclure⁸ qe issi appent a luy a faire collacion, et noun pas a presenter.—*STON.* Il covient counter, auxi bien a la fyne come al comencement, acordaunt a soun bref; et ovesqe ceo, il cleyme par altre, qe dust presenter.—*Pult.*⁹ Nous vous dioms qe les eglises de A. et B. et E. fount¹⁰ la provandro de S.¹¹; et vous dioms qe le Roi pere le Roi, &c., eiaunt¹²

¹ The word *presentare* is omitted from L.

² homme is omitted from T. and 25,184.

³ T., dyocise; L., diocese.

⁴ The words between brackets are omitted from L.

⁵ L., pursuere.

⁶ L., a presenter.

⁷ All the MSS. except L., moustrance.

⁸ L., concludere.

⁹ The plea, according to the record, though longer, is in the main to the same effect as that attributed to Pulteney in the report. It begins, however, thus: "Prædictus Willelmus de Echyngham fuit seiscitus de advocacionibus ecclesiarum de Salherst, Odymer, et Mundefeld, quæ quidem ecclesie

" faciunt præbendam de Salherst prædictam, et eandem advocaciones tenuit de quodam Johanne de Britannia, tunc Comite Riche-mundie, et non de Domino Rege in capite. Et dicit quod dominus Rex non seiscivit prædictam advocacionem in manum suam prout per alienacionem prædicti Willelmi." It is also alleged that William de Echyngham had a license from the King and from the Earl of Richmond to give as well as the Abbot and Convent to take in mortmain. The heir of William de Echyngham, who gave the release, was his brother Simon.

¹⁰ L., sount.

¹¹ MSS. of Y B., E.

¹² L. and 16,560, tant; 25,184, eand.

No. 41.

A.D. 1342. &c., having regard to the loss which the Abbot sustained through the inundations of the sea, granted to him that he might purchase for himself and his successors £100 of rent, of his fee, and of the fee of any other person; and afterwards, wishing to give effect to that grant, he gave the Abbot license to purchase the aforesaid three churches to his own use, which churches constitute the prebend of Salehurst, and were extended at 50 marks by the year; and we tell you that the said churches were held of the Earl of Richmond, and by force of the King's license, and also by the Earl's license, the Abbot purchased the said churches from A., &c., from whom the King takes his title, and afterwards W., son and heir of the said A., released to the said Abbot, and afterwards, in the time of the present King, there was a dispute between the King and the Abbot concerning the said prebend, which was put before the King's Council, because the prebend extended to a matter other than that for which the license was, to wit, a stall in the choir, and a place in the Chapter, and distributions; wherefore the King, rehearsing the licenses and purchase aforesaid, granted to the Abbot that he might hold the said churches which constitute the prebend, and that he and his successors should be received as Brethren and as Canons of the said free chapel without hindrance, and thereupon made his patent to the Dean to receive the Abbot as Brother and Canon, &c.; and we do not think that our Lord the

No. 41.

regarde a la perde¹ qe Labbe avoit par inundacions de A.D. 1342.
la meere,² lui graunta qil purreit purchacer pur luy et
ses successours C. li. de rente, de soun fee, et autri; et
puis, voillaunt mettre cel graunt en effect, luy dona
conge de purchacer les avanditz trois eglises en propre
oepe,³ qe fount la provandre de S.,⁴ qe furent estenduz⁵
a L. marcz par an; et vous dioms qe les dites eglises
furent tenuz⁶ del Counte de Richemunde, et par force
du conge [le Roi, et auxi par conge]⁷ le dit Counte,
Labbe purchacea les dites eglises de A. &c., de qui le
Roy prent soun title, et puis W. fitz et heir le dit A.⁸
relessa au dit Abbe, et puis, en temps⁹ cesty Roy, entre
le Roi et Labbe de la dite provendre debat y avoit
mys¹⁰ par le Roi devant soun Conseil,¹¹ pur ceo qe la
provendre sestendi¹² a altre chose qe la licence ne fut,
saver estalle¹³ en queor,¹⁴ et lieu en chapitre, et distri-
bucions; par quei le Roi, reherceant les licences et le
purchace avandit, graunta al Abbe qil tenist¹⁵ les dites
eglises qe fount la provendre, et qil et ses successours
fussent resceuz en freres et en chanouns [de la dite
fraunche chapel¹⁶ saunz empeschement,¹⁷ et sur ceo fist
sa patent au Dean de resceivre Labbe en frere et
chanoun]¹⁸ &c.; et nentendoms pas qe nostre seignur le

¹ T., perte.² 25,184 and Harl., miere.³ L., oops; Harl., uses.⁴ MSS. of Y.B., E.⁵ L. and 16,560, entenduz.⁶ T., suatenus.⁷ The words between brackets are omitted from 25,184.⁸ L., W.⁹ The words en temps are omitted from T.¹⁰ mys is omitted from T.¹¹ L., Concel.¹² 25,184, descendi.¹³ L. and 25,184, estable.¹⁴ L., unquors; 16,560, en choir, instead of en queor.¹⁵ Harl., tenust.¹⁶ All the MSS. except Harl., provendre.¹⁷ The record, "et quod idem Abbas et successores sui Abbates loci illius qui pro tempore fuerint essent Canonici ejusdem Capellæ, et per Decanum sive Custodem et Capitulum Capellæ illius in Canonicum et in Fratrem ejusdem loci admitterentur, et stallum in choro, et locum in Capitulo ibidem haberent, ut est moris."¹⁸ The words between brackets are omitted from L.

No. 41.

A.D. 1342. King will, in opposition to his grants, desire to be answered as to this writ.—And *Pulteney* made *profert* of all the charters and deeds.—*Thorpe*. You see plainly how he has not denied the presentation from which the King takes

No. 41.

Roi, encountre ses grauntz, voille a ceo bref estre re- A.D. 1342.
spondu; et mist avant totes les chartres et faitz.—
Thorpe.¹ Vous veiez bien coment il na pas dedit le

¹ The replication for the King, which is obscurely brief in the report, is in the record as follows:—
“ quod prædictus Abbas, in re-
“ sponcione sua prædicta, expresse
“ cognovit præbendam prædictam
“ in libera capella domini Regis
“ existere, quæ quidem capella sua
“ est in castro domini Regis de
“ Hastynge, et advocaciones præ-
“ bendarum in capella prædicta de
“ domino Rege, ut de jure coronæ
“ sue teneri debent, nisi per ipsum
“ Regem vel progenitores suos a
“ corona domini Regis specialiter
“ separatæ fuerint, et prædictus Ab-
“ bas nihil allegat per quod Curie
“ liquere poterit dictam advoca-
“ tionem de dicta Comitæ teneri,
“ cum de jure communi advocatio
“ præbendæ prædictæ in capella
“ prædicta de aliquo alio quam
“ de domino Rege teneri non de-
“ beat, unde petit judicium pro
“ domino Rege si idem Abbas ad
“ dicendum advocacionem præ-
“ bendæ prædictæ de dicto Comitæ
“ teneri admitti debeat, &c. Et
“ quo ad hoc quod idem Abbas
“ allegat quendam Laurentium
“ Abbatem prædecessorem, &c.,
“ advocacionem ecclesiarum præ-
“ dictarum de prædicto Willelmo
“ de Kobyngham perquisivisse, li-
“ centia prædicti domini Regis
“ patris super hoc obtenta, et etiam
“ quod quidam Johannes de Bri-
“ tannia, tunc Comes Richemundie,
“ de quo dicit advocacionem eccle-
“ siarum prædictarum teneri, simi-
“ liter eis inde dederat licentiam,
“ &c., et quod postmodum, advoca-

“ tionibus ecclesiarum prædictarum
“ in seisinâ ipsius Laurentii exis-
“ tentibus, quidam Simon frater et
“ heres ipsius Willelmi præfato
“ Laurentio Abbati totum jus quod
“ habuit in una acra terræ brocalis
“ et in advocacionibus ecclesiarum
“ prædictarum remisit et relaxa-
“ verat, &c., nihil tamen ostendit
“ Curie de perquisitione advoca-
“ tionis dictæ præbendæ, nec quod
“ licentiam de domino Rege, seu de
“ præfato Comitæ, seu de aliquo
“ alio, de advocacione præbendæ
“ prædictæ ad manum mortuam
“ perquirenda obtinuerat, pro eo
“ quod tam prædictæ chartæ de
“ licentia habenda quam modus
“ perquisitionis prædictæ, quæ hic
“ Curie ostenduntur, tantum inse-
“ runt mentionem de advocacioni-
“ bus ecclesiarum prædictarum
“ perquirendis, et nullo modo ex-
“ tendi possunt ad advocacionem
“ præbendæ prædictæ, maxime cum
“ corpus dictæ præbendæ in duabus
“ carucatis terræ apud Salehurst
“ et aliis proficuis et emolumentis
“ existat. Et quo ad advocaciones
“ ecclesiarum prædictarum perqui-
“ rendas dictæ chartæ Regis de li-
“ centia habenda, &c., valere non
“ poterunt, cum prædictæ ecclesiæ,
“ ut præmittitur, ad præbendam
“ prædictam annexæ extitissent, et
“ præbendarius illius præbendæ
“ qui pro tempore fuerit prædictas
“ ecclesias in proprios usus possi-
“ deret, quæ quidem præbenda, sic
“ in dicta libera capella domini
“ Regis existens, absque speciali
“ licentia domini Regis inde ob-

No. 41.

.A.D. 1342. his title, but has admitted it. And also it is not denied that King Edward the grandfather was seised of the advowson, &c., for the reason aforesaid, which advowson could not pass from him, except by the King's special gift or grant thereof made to a grantee, to prove which he shows nothing. And as to that which he says that the prebend was held of the Earl of Richmond, that can not be understood to the effect that in the King's free chapel the prebend could be held of any other person than the King, and they have shewn that the prebend consists of matter other than the churches, and the King's confirmation extends only to the churches, and that confirmation by the King does not recite any right which the King had, or extend the grant by words in the confirmation; wherefore we demand judgment, and a writ to the Dean and Chapter.—*Pulteney*.

No. 41.

presentement de quel le Roi prent soun tittle, mes lad A.D. 1342.
 conu. [Et auxi nest pa dedit qil Roi E. laiel ne fust
 seisi del avowesoun &c., par la cause avant dite, le quel
 avowesoun ne put passer de lui, sil ne fust par especial
 don ou graunt du Roi de ceo fait a lui, de quei il ne
 mostre rienz].¹ Et ceo qil parle qe la provendre fuit
 tenu de Counte de Richemunde, ceo ne poet estre
 entendu qe en sa fraunche chapelle ceo purroit estre
 tenu daltre qe du Roi, et il ount moustre qe la pro-
 vendre est en² altre chose qe les eglises, et le conferme-
 ment le Roi [sistent forsqe a les eglises, et quel con-
 fermement du Roi³]⁴ ne reherce nul dreit qe le Roi avoit,
 et lesteynt par paroule el confermement;⁵ par quei
 nous demandoms jugement, et bref au Dean et Chapitre.

"tenta, nullo modo dividi potuit
 "nec minui, ex aliqua parte, et in
 "chartis prædictis de licentia ha-
 "benda non fit aliqua mentio quod
 "dictæ ecclesiæ aliqua portio illius
 "præbendæ extiterunt, ut præmitti-
 "tur, nec etiam quod dictæ ecclesiæ
 "a præbenda prædicta dividi de-
 "berent, et sic dictæ chartæ de
 "licentia habenda de advocationi-
 "bus ecclesiarum prædictarum
 "perquirendis vacuæ censeri de-
 "beant, eo quod dictæ chartæ
 "callide, et veritate inde suffo-
 "cata, atque non plene suggesta,
 "processerunt. Et quo ad char-
 "tam domini Regis nunc quam
 "profert hic in Curia, &c., in qua
 "continetur quod idem dominus
 "Rex concesserat, et licentiam de-
 "erat, quod idem Abbas præben-
 "dam et ecclesias predictas appro-
 "priare posset, et eas appropriatas
 "in proprios usus tenere sibi et
 "successoribus suis in perpetuum,
 "et quod ipse et successores sui
 "Abbates loci prædicti qui pro

"tempore fuerit sint canonici ejus-
 "dem capellæ, ante quam quidem
 "licentiam obtentam, nec etiam
 "postmodum, idem Abbas aliquem
 "tit juris seu possessionis
 "in advocatione dictæ præbendæ
 "ipsi Abbati aut prædec
 "præallegata legitime ostendit ac-
 "crevisse et sic dicta charta do-
 "mini Regis nunc vacua
 "debeat maximo cum prædicta
 "charta nihil juris vel possessionis
 ". titulo juris in vera pos-
 "sessione existat, unde petit judi-
 "cium" The roll is partly
 obliterated.

¹ The words between brackets are
 omitted from all the MSS. but
 Harl.

² L., un.

³ The words du Roi are omitted
 from 25,184.

⁴ The words between brackets are
 omitted from T.; after them there
 are inserted in Harl. the words en
 la provendre de E.

⁵ 25,184, fermement.

No. 41.

A.D. 1342. Whereas he says that it can not be understood that the prebend was held of any other person than the King, Sir, by the count he supposes that a person other than the King was seised of the advowson, and for the same reason that another could have an advowson in his free chapel, this might be holden of a person other than the King, and this we will always maintain. And moreover, Sir, you see plainly how we have shown that the King was apprised that the prebend consisted of distributions and other things besides the churches, and took proceedings against us concerning the same, as above, and notwithstanding that he ratified our estate; wherefore we demand judgment.—*Thorpe*. Let it be entered.—And they were adjourned.

No. 41.

—*Pult.* La ou il dit qe ceo ne poet estre entendu qe la A.D. 1342.
 provendre fut tenu daltre qe du Roi, Sire, par counte il
 suppose qe altre qe le Roi fut seisi del avoweson,¹ et par
 mesme la resoun qe altre purroit aver avowere en sa
 fraunche chapelle purroit ceo estre tenu daltre qe du
 Roi, et ceo voloms touz jours meyntener. Et outre,²
 Sire, vous veiez bien coment nous avoms moustre qe le
 Roi est³ apri de ceo qe la provendre fut en distribucion⁴
 et altre chose qe les eglises, et de ceo nous enpescha⁵ *ut*
supra, et *non obstante* ceo la ratifia nostre estat; par
 quei nous demandoms jugement.⁶—*Thorpe.* Soit entre.
 —*Et adjornantur.*

¹ L. and 25,184, avowere.

² T., outre.

³ est is omitted from all the MSS.
 but 25,184.

⁴ L., 16,560, and 25,184, destour-
 bucions.

⁵ L., empressa.

⁶ In the record the rejoinder is very lengthy, including a repetition of a great part of the plea. It concludes, however, as follows:—"Et non intendit quod (ex quo dominus Rex recitat, per chartam suam predictam, quod predictus Abbas super possessione sua prebende predictae coram ipso et Concilio impetratus, et hinc occasionibus predictis, quas quidem occasiones nunc pro ipso domino Rege superius allegantur, et sic dominus Rex fuit de jure suo et de damno suo satis informatus, et, hoc non obstante, volens statum ipsorum Abbatis et Conventus et successorum suorum securum facere, concessit eis quod ipsi haberent et tenerent prebendam predictam, ut predictum est, per quam quidem concessionem idem dominus Rex de jure, si quod habuit,

" se omnino demisit) quod contra premissa responderi velit, &c."

After several adjournments the King sent to the Justices a Writ Close dated the 8th of February in the 18th year of the reign, and reciting (*inter alia*) the allegation made against the Abbot and his House that in the King's charter " nulla fuit facta mentio de acquisitione advocacionis de prebenda et duarum carucatarum terre in quibus corpus ejusdem prebende consistit, nec de eo quod dicta advocatio ejusdem prebende quas sic est in eadem libera capella nostra, et quas advocatio de alio quam de nobis de jure teneri non possit, de nobis sic tenetur." The King therefore granted a pardon in respect of " omnimodas transgressiones quas ipsi aut eorum predecessores fecerunt dictas duas carucatas terre et advocacionem prebende predictae [&c.] sine nostra seu dicti patris nostri licentia acquirendo," with license to hold the land and advowson in mortmain. The new charter dated the 1st of November in the

No. 42.

A.D. 1342. (42.) § W., chaplain, guardian of an Altar, brought
Jurata
Utrum. a *Jurata Utrum*, in respect of tenements in London,
against Robert Grendone and another.—*Pulteney*. You
have here the Mayor of London, who tells you, for him-
self and the commonalty, that our Lord the King has
granted to the Mayor and citizens of London that they
shall neither plead nor be impleaded, in respect of their
tenures in London, outside the walls of the city; and
we do not think that you will take cognisance of this
matter in this Court.—*STONORE*. Do you demand the
cognisance, as for a liberty?—*Pulteney*. No, Sir,
because that would be to suppose that for want of
a writ in the liberty the parties might return here,
but that would be contrary to the franchise; wherefore
we pray that you abate the writ.—*STONORE*. The
party does not take exception to it.—*Notton*. You
have here the tenant, and he demands judgment of the
writ, for the reason above.—*SHARDELOWE*. What writ
will you give?—*Pulteney*. A writ of Right Patent in
London, and a count in the nature of a *Jurata Utrum*.
—*SHARDELOWE*. You never saw a writ of Right for
a parson, nor any other mode of recovery but Assise and
Jurata Utrum, except the writs which are given by
Statute; and, if you will have your franchise, you can
therein, for such cause, abate the writ; and we can not
do that, for you say that we ought not to take cog-

No. 42.

(42.)¹ § W.,³ chapeleyn, gardeyn dun auter,⁴ porta A.D. 1342.
 Jure⁵ de *Utrum*, de tenementz en Londres, vers Robert
 Grendone⁶ et un altre.—*Pult.* Vous avez cy le Maire⁷
 de Londres, qe vous dit, pur luy et la comune, qe⁸ nostre
 Seignour le Roi ad graunte al Maire et les⁹ citezeynes¹⁰
 de Londres qil ne plerount¹¹ ne serrount empledes de
 lour tenoures en Londres hors des murs¹² de la cite,
 et nentendoms pas qe ceinz¹³ voillez conustre.—*STON.*
 Demandez vous la fraunchise.—*Pult.* Sire, nanyl, qar
 ceo serroit a supposer qe par defaute de bref¹⁴ illoeqes qe
 les parties retournerent,¹⁵ mes ceo serroit coudre la
 fraunchise; par quei nous prioms qe vous abatez le bref.
 —*STON.* Partie nel chalenge¹⁶ pas.—*Nottone.* Vous avez
 cy le tenant, et demande¹⁷ jugement du bref, *causa qua*
supra.—*SCHARD.* Quel bref durrez¹⁸ vous?—*Pult.*
 Bref de dreit patent en Londres, et compte en nature de
 Jure de *Utrum*.—*SCHARD.* Unques ne veistes bref de
 dreit¹⁹ pur persone ne altre recoveir forsqe assise et
 Jure de *Utrum*, salve les brefs qe sont dones par
 statut; et si vous volez aver vostre fraunchise vous poez
 illoeqes, sur tiele cause, abatre le; et ceo ne poms nous
 pas, qar vous ditez²⁰ qe nous ne devons pas ceinz

17th year of the reign, and containing the pardon and license is set out at length. The Justices are directed to proceed in accordance therewith. Judgment is therefore given for the Abbot.

¹ From the five MSS. as above.

² The marginal note in L. and 16,560 is Fraunchise; in Harl., Fraunchise de Londres.

³ T., P.; Harl., Un.

⁴ L., altiere; 16,560, autier; 25,184, alterre.

⁵ 25,184, bref de Jure.

⁶ 25,184, Trend.

⁷ L., Maier; 25,184, Meir; Harl., Mier.

⁸ qe is omitted from L.

⁹ Harl., as.

¹⁰ 16,560, citezns; 25,184, citoi-zeins; Harl., citezeyns.

¹¹ L., prenderent.

¹² L., meere.

¹³ L., cieux.

¹⁴ T. and 25,184, dreit.

¹⁵ L., recoveront.

¹⁶ L., charge.

¹⁷ 25,184, demandoms.

¹⁸ L., ditez.

¹⁹ The words de dreit are omitted from 25,184.

²⁰ T., dioms.

No. 43.

A.D. 1342. nissance of the matter in this Court.—*Thorpe*. If a writ be brought in this Court in respect of tenements within the Cinque Ports, the writ will abate; so also here.—*SHARDELOWE*. If the writ were for tenements partly within the franchise and partly without, then it would abate, and otherwise perhaps not, in this Court; but you are not in this case, for they of London demand cognisance, and have it out of this Court by allowance.—*Pulteney*. Sir, not of real but only of personal pleas.—And afterwards the Mayor argued until the demandant was non-suited, &c.

Execution (43.) § A.¹ sued execution against B.¹ on a Statute

¹ For the names of the persons and places, see p. 409, note 3. It will be observed that the B. of the report represents two distinct per-

sons—Gilbert de Kirkeby (the obligor in the Statute Merchant) and Margaret, late wife of Henry de Hullis, (the lessor).

No. 43.

conustre.—*Thorpe*. Si bref soit porte ceinz¹ des tene- A.D. 1342.
mentz deinz les v. portes, le bref abatera; auxi ycy.—
SCHARD. Si le bref fut de partie des tenementz deinz
fraunchise et partie dehors, la sabatra il, et autrement
par cas nient en ceste Court; mes vous nestes pas en le
cas, qar ceux de Loundres demandent fraunchise, et ount
hors de ceinz¹ par allowaunce.—*Pult*. Sire, noun pas des
plees reals mes soulement de personels.²—Et puis le
Maire parla taunt qe le demaundaunt fuit ncunsuy, &c.

(43.)³ § A. suist execucion vers B. sur estatut mar- Execucion

¹ L., cleux.

² The report ends here in all the MSS. except T.

³ From the five MSS. as above, but corrected by the record, *Placita de Banco*, Mich., 16 Edw. III., R^o. 210. It there appears that the execution on Statute Merchant was sued by Master Henry de Grofherst, parson of the church of Horton (Kent) against Gilbert de Kirkeby of Fawkham. The writ of *Audita Querela* contains the following recital:—"Cum Margareta quæ fuit uxor Henrici de Hullis nuper dimisisset, concessisset, et ad firmam tradidisset Magistro Henrico de Grofherst, personæ ecclesiæ de Hortone, manerium ipsius Margarete de Hullis, et totum tenementum suum apud Botillers, cum omnibus et singulis eorum pertinentiis, habenda et tenenda prædicta manerium et tenementum suum cum suis pertinentiis a die Sancti Barnabæ Apostoli anno regni domini Regis nunc octavo usque ad Festum Sancti Dionysii tunc proxime sequens, et a dicto Festo Sancti Dionysii usque ad finem quatuor annorum proxime sequentium,

"pro quadam firma eidem Margarete annuatim solvenda, et pro majori securitate eidem Henrico facienda pro termino suo prædicto habendo, Gilbertus de Kirkeby de Fawkham, coram Johanne de Pulteneye, nuper Maiore civitatis Regis Londoniarum, et Willelmo de Carleton tunc clerico ad recognitiones debitorum apud Londonias accipiendo deputato, recognovit se debere præfato Henrico per nomen Magistri Henrici de Grofherst, clerici, centum libras eidem Henrico ad certum terminum solvendas, idemque Henricus per scriptum suum concessisset quod si contingeret ipsum terminum suum prædictum pacifice et absque impedimento habere quod dicta recognitio annullaretur et pro nullo haberetur, jamque ex querela ipsius Gilberti accepit dominus Rex quod, licet idem Henricus prædicta manerium et tenementum, cum suis pertinentiis, durante termino supradicto, pacifice et absque impedimento habuisset, nihilominus idem Henricus quoddam breve eidem Vicecomiti [of Kent] directum quod

No. 43.

A.D. 1342. Merchant; and he had it. And B. came into the Chancery and showed an indenture made between him and A., to the effect that, if the said A. should peaceably hold the manor of C.¹ according to the purport of a lease until the end of his term, and B. should acquit A., &c. (which manor, according to the words of the specialty, B.¹ had leased to A.,¹ &c.), the Statute should be holden as null; and B. said that A. held the manor peaceably, &c., so that he had sued in opposition to his deed. And thereupon B. had an *Audita querela* to the Justices, upon which a *Venire facias* issued against A. A. came and said that the covenant of the lease was broken, for he said, by *Thorpe*, that he was distrained for the Queen's Gold, and it was levied from him by distress, and he was not acquitted; and also he was distrained by one P. for an annuity which one J., tenant, &c., had granted to P. long before the lease; and also B., the lessor, had cut and carried away wood within his term and hindered him of his herbage there, &c.—*Gaynesford*. As to the annuity we tell you that J. did not grant any annuity to P. as you suppose. And, as to your having been distrained for the Queen's Gold, we tell you that by agreement between you and us, you paid the Queen on condition that so much was to be allowed to you when you paid your farm at the next following term of payment: and we tell you that it was allowed to you; ready, &c. And, as to the

¹ See p. 408, note 1.

No. 43.

chaund; *et habuit*. Et B. vint en Chauncellerie et moustra endenture fait entre luy et A., qe si le dit A. tenist² peisiblement le maner de C. solonc purport dun lees tanqe al fyn de son terme, et qil lui acquitast, &c., quel maner, solonc ceo qe lespecialte voleit, B. avoit lesse a A., &c., qe lestatut serroit tenu pur nul; et dit qe peisiblement, &c., il tynt le maner, issi ad il suy countre soun fait. Et avoit sour ceo *Audita Querela* as Justices, hors de quei issit *Venire facias* vers A. Il vynt et dit qe le covenant du lees fuit enfreint, qar il dit,³ par *Thorpe*, qil fuit destreint pur lor la Reyne,⁴ et leve de luy par destresse, et il nient⁵ acquite; et auxi il fuit destreint pur une annuite par un P. qune J. tenant, &c., lavoit graunte long temps avant le lees; et auxi B.⁶ le lessour⁷ avoit coupe de bois deinz son terme et emporte, et luy destourbe des herbages illoeqes, &c.—*Gayn*. Quant al annuite nous vous dioms qe J. graunta nule annuite a P. solonc ceo qe vous supposez. Et quant a ceo qe vous fuistes destreint pur lor la Reyne⁴ nous vous dioms qe, par acorde entre vous et nous, vous paiastes la Reyne⁴ issint qe taunt vous serroit⁸ allowe en le paiement de vostre ferme al procheyn terme ensuaunt; et vous dioms qe ceo⁹ vous fuit¹⁰ allowe; prest, &c. Et

A.D. 1342.

sur statut
marchant.¹

" corpus prædicti Gilberti, si laicus
 " foret, caperet et in prisona Regis
 " salvo custodiri faceret, donec
 " eidem Henrico de prædictis cen-
 " tum libris plene satisfecerit, con-
 " tra formam scripti supradicti
 " impetravit, et, quia idem Vice-
 " comes, ad diem ad quem dictum
 " breve hic extitit retornabile, re-
 " tornavit quod mandavit ballivo
 " libertatis Archiepiscopi Cantuari-
 " ensis, qui nihil inde fecit, præ-
 " dictus Henricus executionem
 " terrarum et tenementorum quæ
 " fuerunt in manu dicti Gilberti die
 " recognitionis prædictæ juxta for-

" mam Statuti apud Actone Burnel
 " editi prosecutus est."

Gilbert de Kirkeby's declaration
 on the *Audita Querela* is to the
 same effect.

¹ The marginal note in L. and
 Harl. is *Audita Querela*.

² Harl., tenust.

³ Harl., est.

⁴ T., Roigne.

⁵ L., vint et.

⁶ T., R; L., G.

⁷ T., feffour.

⁸ L. and 16,560, serrez.

⁹ ceo is omitted from L. and 16,560.

¹⁰ L., fustes; Harl., futes.

No. 43.

A.D. 1342. cutting of the wood, we did not cut any except with your leave ; and he shewed a letter testifying the leave.—*Thorpe*. We will maintain, by all the reasons that we have mentioned, that we were disturbed in our term ; for the effect of the issue is no other than whether we held our term peaceably or not ; and one reason, if there were no more, could prove the point ; and if we have twenty we shall be aided by them all.—*SHARDELOWE*. When you take issue in fact, you must necessarily take your stand on a certain point.—And by judgment he was put to hold to one cause.—*Thorpe*. Then we tell you that the Queen's Gold was levied from us by distress against our will ; ready, &c.—*Gaynesford*. If you paid it, and it was afterwards allowed to you when you paid your farm, still you suffered no loss ; and we will aver that what you paid was allowed to you, as above.—*SHARDELOWE*. Do you sup-

No. 43.

quant al couper de bois, nous coupames nul forsque par A.D. 1342.
vostre conge; et moustra lettre tesmoignaunt le conge.
—*Thorpe*. Nous voloms meyntener, par totes les causes
qe nous avoms dit, qe nous fumus¹ destourbe de nostre
terme; qar leffect del issue nest altre mes le quel nous
tenismes² peisiblement nostre terme³ ou noun; et une
cause, sil y avoit nient plus, le purroit prover; et si nous
avoms⁴ xx nous serroms eide par touz.—*SCHARD*. Quant
vous pernez issue en fait, il covient *necessario* qe vous
descendez sur certeyn point.—Et par agarde il fuit mys
de prendre a une cause.⁵—*Thorpe*. Donques vous
dioms nous qe lor la Reyne⁶ fuit leve de nous par
destresse countre nostre gree; prest, &c.—*Gayn*. Si
vous le paiastes, et apres ceo vous⁷ fuit⁸ allowe [en paie-
ment de vostre ferme, unquore rien vous depiert; et
voloms averer qe ceo qe vous paiastes vous fuit allowe,]⁹
ut supra.¹⁰—*SCHARD*. Quidez vous qe si, countre [le

¹ L., sumes.² L., tenoms; Harl., tenumes.³ T., terre.⁴ T., eioms.⁵ T., certeyne cause.⁶ T., Roigne.⁷ 16,560, fustes vous.⁸ 25,184 and Harl., fust; the word is omitted from 16,560.⁹ The words between brackets are omitted from 25,184.¹⁰ The matters touching the annuity and the cutting of wood do not, of course, appear in the record. There the pleadings subsequent to the declaration are as follows:—

“ Et Henricus dicit quod ipse, ut
“ tenens de prædictis manerio et
“ tenemento, sæpius districtus fuit
“ pro auro Regine, &c., per quod
“ ipse requisivit præfatam Marga-
“ retam ut eum versus præfatam
“ Reginam inde acquietaret, endem
“ Margareta aurum prædictum sol-

“ vere vel ipsum Henricum versus
“ dominam Reginam inde acquie-
“ tare non curavit, ita quod, pro
“ defectu acquietantis prædictæ
“ Margarete, ipse Henricus per
“ districtionem et coercionem
“ solvit quinquaginta et unum
“ solidos et octo denarios pro auro
“ domine Regine prædictæ, et sic
“ dicit quod ipse terminos suos de
“ prædictis manerio et tenementis
“ pacifice non obtinuit secundum
“ conventionem supradictam, unde
“ petit iudicium, &c., et quod execu-
“ tio prædictarum centum librarum
“ non retardetur in hac parte, &c.
“ Et Gilbertus dicit quod locutum
“ et concordatum fuit inter ipsos
“ Henricum et Margaretam quod
“ prædictus Henricus solveret præ-
“ fatæ Regine prædictos denarios
“ pro auro prædicto, &c., et quod
“ ipsa Margareta allocaret eidem
“ Henrico tantam summam pecunie

No. 43.

A.D. 1342. pose that if, contrary to the covenant, it was levied by distress against his will, you will prove, by the subsequent allowance, that the covenant was not broken? —*Gaynesford*. He paid it of his own free will, as above, without this that it was levied by distress; ready, &c.—And the other side said the contrary.

No. 43.

covenant, ceo fut leve par destresse countre son gree qe A.D. 1342.
 par allowance apres vous prouverez qe]¹ le covenant ne
 fut pas enfreint?—*Gayn.* Il² le paia de son gree, *ut*
supra, saunz ceo qe ceo fuit leve par destresse; prest,
&c.—*Et alii c contra.*

" in prima solutione firma sum
 " prædictæ, absque hoc quod idem
 " Henricus solvit prædictos dena-
 " rios pro auro prædicto per dis-
 " trictionem et coercionem, sicut
 " prædictus Henricus dicit. Et
 " hoc paratus est verificare, &c.
 " Unde petit judicium, &c.
 " Et Henricus dicit quod ipse

" solvit denarios prædictos pro
 " auro prædicto per districtionem
 " et coercionem, sicut ipse superius
 " supponit."

Here issue was joined.

¹ The words between brackets are
 omitted from 25,184, the words il
 fut distreint qe being substituted.

² L., ele.

No. 44.

A.D. 1843. (44.) § A woman brought an Assise of Novel Dis-
Assise of seisin against John Neirford¹ before SHARDELOWE in
Novel the country, and there was pleaded in bar a release from
Disseisin. the plaintiff, which was denied. And it was found by
the Assise that the woman made that deed, and
delivered it to B.¹ as to an impartial hand, on condition
that, if on a certain day she should be paid one half-
mark by John, who now pleads the release, it should be

¹ As to the names, see p. 417, note 1.

No. 44.

(44.)¹ § Une femme porta un ² assise ³ de novele dis- A.D. 1342.
seisine vers Johan Neirford ⁴ devant SCHARD.⁵ en Novele
pais, et plede fuit en barre par relees la pleintife, [16 Li.
quele ⁶ fut ⁷ dedit. Et trove fuit par assise qe la Ass. 18.]
femme fist ceo fait, et le bailla en owele mayn a un B,
issi qe si a certeyn jour ele fuit servy de demi marc par
Johan qore plede par ⁸ le relees, qe ceo ⁹ luy fust livere,¹⁰

¹ From the five MSS. as above. The case seems to be that which is found among the *Placita de Banco*, Mich., 16 Edw. III. R^e. 349. It there appears that the action was brought by Joan, late wife of Richard Banne, against Elias Farman, of Hungerford, and Katharine his wife, Peter Farman, Nicholas de Lincoln, chaplain, Peter son of Elias Farman, and Elias the last-named Peter's brother. The first-mentioned Elias Farman alone answered as tenant (the rest having alleged that they had nothing in the tenements put in view), and pleaded the release which was denied, as stated in the report. Issue having been joined thereon, the jury (with one of the witnesses to the deed) found, "quod scriptum
" prædictum factum fuit per præ-
" dictam Johannam et sigillo suo
" consignatum, et liberatum fuit
" cuidam Ricardo atte Halle custo-
" diendum sub tali conditione
" quod si prædictus Elias Farman
" solveret ipsi Johannæ sex solidos
" et octo denarios [at a certain
" day] quod scriptum illud eidem
" Eliæ liberaretur, et si idem Elias
" in solutione illa deficeret tunc
" scriptum illud eidem Johannæ
" traderetur et null[i]us esset vi-
" goris; et dixerunt quod idem
" Elias postmodum ante prædic-
" tum [day] solvit ipsi Johannæ

" tres solidos et quatuor [denarios]
" de denariis prædictis, et nun-
" quam solvit ei plures denarios
" de denariis illis. Et petierunt
" discretionem Justiciariorum. Ju-
" ratores quæsti qualiter prædictus
" Elias advenit ad scriptum præ-
" dictum, an videlicet per assen-
" sum prædictæ Johannæ, vel non,
" qui dixerunt quod, post mortem
" prædicti Ricardi atte Halle, quo-
" dam Alicia quæ fuit uxor ejus-
" dem Ricardi, in cujus custodia
" scriptum illud extitit, per con-
" sensum inter ipsam et prædictum
" Eliam, liberavit ipsi Eliæ scrip-
" tum illud contra voluntatem
" ipsius Johannæ. Dix-
" runt etiam quod disseisina præ-
" dicta, si, &c., facta fuit solummodo
" per prædictum Eliam Farman." Upon this the parties were adjourn-
ed into the Bench "de audiendo ju-
" dicio suo." There were further
adjournments, but the judgment
does not appear on the roll.

² un is omitted from L. and 25.184.

³ L., bref.

⁴ L., Stonford.

⁵ Harl., SCHARD.

⁶ quele is omitted from L.

⁷ L., fut pas.

⁸ Harl., qe.

⁹ The words qe ceo are omitted from all the MSS. except T.

¹⁰ livere is omitted from L.

No. 44.

A.D. 1342. delivered to him, and, if not, that the deed should lose its force. And it was further found that she has and had been paid only 40*d.*, and also that, after the death of him to whom the release was delivered, the deed came into the hands of his widow, who delivered the deed to John, against the will of the plaintiff. And thereupon they were adjourned.—*Thorpe*. It is found that although the woman made and sealed this deed, yet she did not deliver it, but it was delivered against her will, and that the condition was not performed; and, in order that the deed should by law be adjudged to be her deed, it would be just as necessary that she should assent to the delivery of the deed as to the execution of it; for if I make a release to you on a bargain between us for a certain sum of money, and while the money is unpaid, you take the deed away from me, it is true to say that it is not my deed.—*SHARSHULLE*. It is true perchance when the deed is taken from you, but in this case it was delivered.—*Thorpe*. Yes, contrary to the covenant.—*SHARDELOWE*. You have an action against the person who delivered it, and I once saw that one joint feoffee released to the other by a deed which he delivered to the latter to keep, upon condition, and the latter, in whose favour the deed was made, obtained possession of the deed contrary to the covenant, and the person who made it could never get to the Assise.—They were adjourned into the Bench.

No. 44.

et si noun¹ qe le fait perdroit sa force. Et trove fut A.D. 1342. outre qele nest ne ne fut¹ servi forsqe de xl. deners, et auxi qe, apres la mort celui,² a qi le relees fut baille, le fait vynt en la mayn sa femme, la quele bailla le fait, countre le gree la pleyntif,³ a Johan, sur quei ils sount ajournes.—*Thorpe*. Trove est qe coment qe la femme fist et enseala⁴ ceo fait, unquore ele le livra pas,⁵ mes qe⁶ ceo⁷ fut livere countre sa volunte, et qe la condicion ne fut pas tenu; et, a ceo qe le fait serra par ley ajugge soun fait, il covendreit si avant qele assentist⁸ sur la livere del fait come⁹ sur la fesaunce; qar si jeo vous face un relees par bargain entre nous pur certain somme de deners, les deners nyent paies, vous me¹⁰ tollez le fait, cest verite a dire qe ceo nest pas moun fait.—*SCHARS*. Cest verite par cas quant il vous est¹¹ tollet; mes icy¹² fut ceo¹³ livere.—*Thorpe*. Oil, countre covenant.—*SCHARD*. Vous avez accion countre celui qe le livra, et jeo vie une foitz qe lun joint¹⁴ fesse relessa al autre par un fait et lui livra issi a garder, et lautre, a qi le fait se fist, avint¹⁵ countre le covenant al fait, et celui qe fist le fet ne pout unques¹⁶ atteyndre a lassise.—*Adjornantur in Banco*.

¹ L., ne fut; 16,560, fut ne est; 25,184, fut nyent; Harl., fust pas, instead of nest ne ne fut.

² 16,560, A.; 25,184, B.; Harl., cesty A.; the word is omitted from L.

³ 25,184, femme pleyntif.

⁴ T., enceala; 25,184, ensealea.

⁵ pas is omitted from L.

⁶ qe is omitted from 25,184.

⁷ L., ceo qe, instead of qe ceo.

⁸ Harl., sentist.

⁹ 25,184, mes.

¹⁰ All the MSS. except Harl., ne.

¹¹ 25,184, est de vous, instead of vous est.

¹² T., issi.

¹³ T., il vous fut; L., fut vous, instead of fut ceo.

¹⁴ L., 16,560, and 25,184, yoint.

¹⁵ Harl., avoit.

¹⁶ L., unquore ne pout, instead of ne pout unques.

No. 45.

A.D. 1342. (45.) § Novel Disseisin against James de Audeley
Assise of and others, before HILARY, in the country. James said,
Novel by bailiff, that he had nothing then except in reversion ;
Disseisin. and another took upon himself the tenancy and pleaded
the using of a writ of a higher nature. And thereupon,
the record being denied, they were adjourned into the
Bench, where the record was. On the day given the
tenant did not come ; and therefore the assise was sent
back to be taken against the others, and, as to the
tenant, in respect of damages. On the day given, James
came and prayed to be admitted ; and thereupon they
were adjourned there [in the Court of the Justices

No. 45.

(45.)¹ § Novele Disseisine vers James Daudele² et A.D. 1342.
 altres, devant HILL, en pais. James dit par baillif qil
 navoit adonques forsque en reversion ; et un altre emprist
 la tenance, et pleda user dun bref de plus haute nature. [16 Li.
 Et sur ceo, le record dedit, ils furent ajornes en Baunk, ou Ass. 17 ;
 le record fuit, a quel jour le tenant ne vint pas ; par Fitz.
 quei lassise fuit remaunde a prendre vers les autres, et Resceit,
 quant al tenant, en dreit³ des damages ; a quel jour 108.]
 James vint et pria destre resceu,⁴ et sur ceo ajourne

¹ From the five MSS. as above (until otherwise stated), but corrected by the record, *Placita de Banco*, Mich., 16 Edw. III., R^o. 350. It there appears that the action was brought by Roger de Heuyne against James de Audeley, John Lowargh, and others, in respect of six acres of meadow in "Chirchedelewe" (Herefordshire). James de Audeley pleaded, by baillif, that he had nothing in the meadow except a reversion expectant on the death of John Lowargh. He also traversed the alleged tort and disseisin, and issue was joined thereon. John Lowargh pleaded that the tenements put in view were only four acres of meadow, as to which he said assise ought not to be had :—
 " Quia dixit quod prædictus Rogerus, qui tunc questus fuit, alias tulit quoddam breve de Intrusione versus ipsum Johannem retornabile coram Johanne de Stonore et sociis suis, tunc Justiciariis domini Regis de Banco, apud Westmonasterium,
 " anno regni domini Regis nunc quartodecimo, et petiit prædictum pratum in visu positum. (Process thereon continued.) Et sic dicit quod placitum super eodem brevi de Intrusione, quod fuit breve de

" altiori natura quam fuit breve
 " assise novæ disseisine, pendebat
 " inter eos in præfata Curia Regis
 " de prato prædicto in forma prædicta, unde petit judicium si
 " prædictus Rogerus ad hoc breve
 " assise novæ disseisine responderi
 " deberet, &c."

² Harl., Daldel.

³ The words en dreit are omitted from 16,560 and Harl.

⁴ According to the record :—
 " Super hoc prædictus Jacobus [repeating that John Lowargh held only for life, the reversion being to James] petiit quod ipse per defaltam prædicti Johannis non amitteret jus suum sed quod ipse admitteretur ad defensionem juris sui in hac parte.—Et Rogerus dixit quod prædictus Jacobus ad defensionem juris sui admitti non debuit in hac parte quia dixit quod in recordo prædicto per Justiciarios hic ibidem misso continebatur quod, pro eo quod prædictus Johannes Lowargh qui tenens fuit prædictorum tenementorum non venit ad diem sibi datum coram Justiciariis hic, nec etiam protulit hic recordum quod superius allegavit, assisa considerata fuit capienda versus ipsum Johannem de damnis tantum et non de libero

No. 45.

A.D. 1342. of Assise]. On the day there given James appeared by attorney appointed by writ, and prayed as above. And thereupon they were adjourned to this day in the Bench; and now James, by attorney, prayed to be admitted.—*Pulteney*. An attorney cannot be accepted, because, if the admission be counterpleaded, the attorney cannot find security for the issues.—*SHARSHULLE*. He was accepted in the country as attorney, and thus has a day by appointment.—*HILLARY*. That is not so. The person who prays to be admitted has not a day unless it seems to him expedient to appear.—*SHARSHULLE*. See whether he can be admitted, for there is no doubt that he can appear by attorney.—*Moubray*. When heretofore in this Court the tenant did not appear, and failed of his record, the land was thereby lost according to Statute,¹ and James did not then come to pray admission, and he has passed his time; wherefore, &c.—*R. Thorpe*. In an Assise of Novel Disseisin no one can be admitted except one who is party, and named in the writ, so that even if James had come when only the tenant and the plaintiff had a day here in the Bench, he would not have been ad-

¹ 18 Edw. I. (Westm. 2) c. 25.

No. 45.

illoques; a quel jour James vint par attourne par bref, et A.D. 1312
 pria *ut supra*. Et sur ceo ajournes ore en Baunk;
 James ore par attourne pria destre resceu.—*Pult.*
 Attourne ne gist pas, qar, si la resceite soit countreplede,
 attourne ne poet pas trover surte des issues.—*SCHARS.*
 Il est accepte en pais attourne, et issi ad jour par pre-
 fixation.—*HILL.* *Non est.* [Celuy qe prie nad pas jour
*nisi sibi*¹ *viderit*² *expedire*.—*SCHARS.* Veiez³ sil scit
 resceivable, qar *non est*⁴ *dubium* qil ne⁵ poet estre par
 attourne.—*Moubray.* Quant altrefoit en ceste place le
 tenant ne vint pas, et failli de soun recorde, issint la
 terre perdu par statut, et adonques il ne vint pas pur
 prier, &c., et il ad sursis soun temps, par quei, &c.—
R. Thorpe. En assise de novele disseisine nul ne poet
 estre resceu forsque celuy qest partie, et nome el bref, issi
 qe mesqe James ust⁶ venuz quant le tenant et le pleintif
 avoient soulement jour ci en Baunk, il nust pas este

" tenemento prædicto, nec de dis-
 " seisine versus ipsum Johannem,
 " &c., per quod tenementa præ-
 " dicta, in quantum in ipso Jo-
 " hanne fuit, amissa fuerunt hic in
 " Banco, et idem Johannes non ha-
 " buit diem ibidem ad diem illum;
 " et, quamvis assisa prædicta ad
 " tunc capienda fuisset de damnis
 " tantum, et etiam pro commodo
 " domini Regis, ad inquirendum
 " qui fuerunt coadjutores disseisine
 " prædictæ, non intendebat quod
 " prædictus Jacobus in hoc casu
 " fuerat admittendus, unde petit
 " judicium si idem Jacobus ad de-
 " feusionem juris sui admitti de-
 " buit, &c.—Et Jacobus dixit quod
 " cum prædicta tenementa usque
 " tunc amissa non fuerunt, sed
 " judicium inde usque ad tunc
 " restitit reddendum, et similiter
 " assisa restitit capienda, &c., et
 " ipse nullum diem habuit coram

" Justiciariis hic, quando prædictus
 " Johannes defaultam fecit, et tunc
 " idem Johannes reattachiatus fuit
 " essendi ibidem ad diem illum
 " auditurus recognitionem assise,
 " &c., unde petit judicium, ex quo
 " ipse venit ante judicium super
 " principali redditum, &c., et ante
 " assisam captam, si ipse ad defen-
 " sionem juris sui admitti non de-
 " beret, &c."

Upon this there was an adjourn-
 ment before the Justices of Assise
 at Hereford, and a subsequent ad-
 jourment by them into the Com-
 mon Bench, where the previous
 pleadings were rehearsed.

¹ L., *si sibi*.

² L., *providet*.

³ Harl., *voet*.

⁴ The words between brackets are
 omitted from T.

⁵ ne is omitted from T. and Harl.

⁶ L. and 16,560, est.

No. 45.

A.D. 1342. mitted, because then he was not a party ; but afterwards, when he was re-attached in the country, if he had been tenant, he would have been admitted to plead in bar ; consequently he was then, and still is, capable of being admitted.—*W. Thorpe*. When the tenant in an assise pleads by bailiff to the assise, and the assise is awarded, and afterwards the assise is put without day, and he is re-attached, he shall not plead in bar, because he has passed his time ; witness Pulteney's assise, where Maud Manne was ousted in a similar case ; and in this case, as men think, James might on the first day have pleaded in bar on the ground of a reversion, although the tenant was in Court and pleaded ; wherefore now he shall not be admitted.—*R. Thorpe*. No, certainly he was not, on the first day, when the tenant pleaded in bar, in a position to plead anything except to the assise.—*W. Thorpe*. This assise is not now to be awarded on the default of the tenant, because the land by the plea is lost ; for suppose that the tenant had come into this Court when he had a day to produce his record, his presence would not have been of any service to him if he had not shown the record ; therefore, since his coming could not have saved the land, his absence is not the cause of the loss ; and since by plea he can lose his land, notwithstanding the prayer of the person who has the reversion, it is consequently now lost.—*Notton*. When assise is to be awarded on the freehold by the default of the tenant, the person to whom the right

No. 45.

resceu, pur ceo qe adonques il ne fuit pas partie;¹ mes apres, A.D. 1342. quant il fut reattache en pais, sil ust este tenant, il ust este² resceu daver plede en barre; *per consequens* il fut resceivable adonques et unquore est.—*W.³ Thorpe*. Quant tenant en⁴ assise plede par baillif a lassise, et lassise⁵ soit agarde,⁶ et puis lassise⁷ est⁸ saunz jour, et il est reattache, il ne pledra pas en barre, qar il ad⁹ soursis soun temps; *teste*¹⁰ lassise de Pulteneye, ou Maude Manne fut ouste en le cas; et en ceo cas, a ceo qe homme quide, J.¹¹ poet al primer jour aver plede en barre par cause de reversion, coment qe le tenant fut en Court et pleda; [par quei a ore il ne serra pas resceu.—*R. Thorpe*. Nanyl certes, il ne fut¹² pas, a primer jour, quant le tenant pleda en barre],¹³ en cas de rien aver plede forsque al assise.—[*W.*] *Thorpe*.¹⁴ Ceste assise nest pas dagarder¹⁵ a ore sur defaute del tenant, qar la terre par plee est perdue; qar mettez moi qe le tenant ust venu ceinz quant il avoit jour daver son recorde, sa presence ne luy ust pas tenu lieu sil nust moustre le recorde; *ergo*, quant sa venue ne puit aver sauve la terre, sabsence nest pas cause de la perde; et¹⁶ quant par plee il poet perdre¹⁷ sa terre, *non obstante* la priere celuy qad la reversion, *per consequens* cest ore¹⁸ perdu.—*Nottone*. Quant lassise est dagarder sour le fraunctenement par defaute del tenant,

¹ L., porte.² The words tenant il ust este are omitted from Harl.³ W. is from 25,184 alone.⁴ L., est, instead of tenant en.⁵ The words et lassise are omitted from L.⁶ Harl., ajuge.⁷ lassise is omitted from L.⁸ 25,184, soit.⁹ The words qar il ad are omitted from 25,184.¹⁰ L., *Thorpe*.¹¹ 25,184, il.¹² Harl., poast.¹³ The passage between brackets was at first omitted from 25,184, but has been there inserted in a somewhat later hand; it forms part of the original text of the other MSS.¹⁴ *Thorpe* is omitted from L.¹⁵ Harl., dajuger.¹⁶ L. and 25,184, *ergo*; the word is omitted from 16,560.¹⁷ Harl., ad perdu, instead of poet perdre.¹⁸ ore is omitted from L.

No. 45.

A.D. 1343. belongs may be admitted; *a fortiori* where the assise is to be awarded for damages, because the mischief is greater; and now no award is yet made, as to the freehold, for taking the assise, so that we are come in time before any award made to take the assise in respect of the freehold, in respect of which we pray to be admitted.—*Seton*.—Although he to whom the reversion belongs may be admitted in such case, still he may pass his time; for suppose that a writ be brought against a tenant, and the person in whom the right is, and that the tenant makes default, and the person to whom the reversion belongs does not then pray to be admitted, and the assise is consequently awarded, he will not be admitted on another day, because he passed the time when he was capable of being admitted; so here.—*Richemund, ad idem*. If a writ be brought against a man and his wife, who hold for term of life, and on their default the person to whom the reversion belongs is admitted to defend his right, and afterwards makes default, the wife can not afterwards be admitted, because she did not pray in time; and so also in this case, since J. did not come when the assise was to be awarded, he shall not be admitted after the award.—*SHARSHULLE*. The case is different in an Assise from what it is in a *Præcipe quod reddat*; for in a *Præcipe*, when land is taken on the default of the tenant, who gives notice to the person to whom the reversion belongs, the reversioner can know that, if his tenant do not come, the land is lost; whereas in the case of an Assise he could not know, when he was out of Court, what might happen between the plaintiff and the tenant, for on default by the tenant process in this case is not to be made.—*Moubray*. If execution be sued

No. 45.

celuy a qi le dreit est poet estre resceu ; a plus fort ¹ la A.D. 1342. ou lassise est dagarder des damagrs, qar le meschief est plus graunt ; et ore nul agarde est unquore fait quant al fraunctenement de prendre assise, issi qe nous sumes venuz ² par temps devant asqun agarde fait dassise del fraunctenement de quei nous prioms destre resceu.—*Setone*.³ Mesqe celui a qi la reversion appent soit resceivable en cas, unquore put il sourser son temps ; qar mettez moy qe bref⁴ soit porte vers tenant, et celui en qi le dreit est, et le tenant fait defaute, et celui a qi la reversion appent⁵ ne prie⁶ pas⁷ aõnques, par quei lassise est agarde, a un altre jour il ⁸ ne serra pas resceu, pur ceo qil surrist le ⁹ temps quant il fut resceivable ; *sic hic*.—*Rich. ad idem*. Si bref soit porte vers un homme et sa femme, qe tenent a terme de vie, et par lour defaute celui a qi la reversion est¹⁰ est resceu a defendre son dreit, et puis fait defaute, la femme ne poet apres estre resceu, pur ceo qe ele pria pas au temps ; et auxi est de ceste part, quant J. ne vint pas quant¹¹ lassise fut dagarder, apres lagarde il ne serra pas resceu.—*SCHAR*. Il est altre en assise qen *Præcipe quod reddat* ; qar en *Præcipe* quant terre est pris [par defaute del tenant, qe doune notice a celui a qi la reversion appent, il purra savoir qe, si son tenant ne veigne, la terre est perdue]¹² qen cas dassise ou il ne put savoir, quant il fut hors de Court, ceo qe avendreit entre le pleyntif et le tenant ; qar sur defaute del tenant proces en ceo cas nest pas a faire.—*Moubray*. Si execucion soit suy vers

¹ fort is omitted from L. and 16,560.

² venuz is omitted from L.

³ L. and Harl., *Ston.* ; 25,184,

SCHAR.

⁴ 25,184, ou bref ; Harl., assise.

⁵ L. and 16,560, avoit ; Harl., est.

⁶ L., put ; 16,560, poet.

⁷ T., mye ; 16,560, point.

⁸ L., ele.

⁹ L., soun.

¹⁰ Harl., appent.

¹¹ L., qare.

¹² The passage between brackets was originally omitted from 25,184, and has been inserted, not quite correctly, in a later hand.

No. 45.

A.D. 1342. against a tenant for term of life upon a fine or a judgment, and the tenant do not come on the first day, process is not to be made on his default; nevertheless if the person to whom the reversion belongs do not come on the first day, but the parties have a day over to hear their judgment, he shall not be admitted afterwards on the second day; and *a fortiori* in this case, for when he was in Court, and knew that the tenant had vouched the record, he was then apprised that if the tenant had not his record the land would be in danger of being lost; and when then there was only a stay in Court from giving judgment as to the land, that stay will not give him the advantage of being admitted, because by law the land was then lost.—SHARSHULLE. That stay, by reason of which you did not then have judgment on the principal matter, was caused by yourself, for if you had remitted the damages you might have had it; but you prayed the assise in respect of your damages, and judgment cannot be given by parcels; wherefore judgment was never to be given in respect of the land to be recovered by assise awarded as to the freehold; wherefore it seems that he has come in time.—KELSHULLE. An award has been given to take the assise in respect of damages, and that must be executed.—*R. Thorpe*. If he be not admitted he suffers disherison, for he will not have a writ of Entry according to Statute,¹ because he is named in the writ, nor a writ of Right, because perchance he is a purchaser of the reversion; and when he is re-attached he has by law the advantage of giving an

¹ 52 Hen. III. (Marlb.), c. 29.

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tenant a terme de vie hors dun fyn ou jugement si A.D. 1342. le tenant ne veigne¹ al primer jour, proces sour sa defaute nest pas a faire;]² nepurquant si celui a qi la reversion appent³ ne veigne al primer jour, mes⁴ parties soient ajournes outre doier lour jugement, il ne serra pas resceu al secunde jour apres; et a⁵ plus fort in ceo cas, qar quant il fut en Court, et savoit qe le tenant avoit vouche recorde,⁶ il fut adonques appris qe si le tenant nust pas son recorde qe la terre fut a perdre; et quant adonques [il ny avoit forse areste en Court qe jugement nust este rendu de la terre, pur ceo qe par la ley ele adonques]⁷ fut perdue, cele aresto ne durra pas avantage a luy destre resceu.—SCHAR. Ceo fut areste de vous mesmes qe vous nussez eu le jugement du principal adonques, qar si vous ussez relese les damages vous le⁸ puissez avoir eu; mes vous priastes assise pur vos damages, et homme ne poet rendre⁹ le jugement par parcelles; par quei unques¹⁰ jugement fut a rendre de¹¹ la terre a recoverir de lassise agarde quant a frauntenement;¹² par quei il semble qil est venu par temps.—KELS. Un agarde est fait de prendre assise des damages, quel covient estre execut.—*R. Thorpe*. Sil ne soit resceu il est desherite, qar il navera pas bref dentre par statut, pur ceo qil est nome en le bref, ne bref de dreit, pur ceo qe par cas il est purchaceour de la reversion; el quant il est reattache par ley il est a lavantage daver respons.—*W. Thorpe*.

¹ 25,184, viengne.² The passage between brackets is omitted from T.³ L. and Harl., est.⁴ All the MSS. except 25,184, ovesqe.⁵ The words et a are omitted from L. and 25,184.⁶ recorde is omitted from L.⁷ The words between brackets are omitted from L.⁸ le is omitted from L. and Harl.⁹ All the MSS. except 25,184, prendre.¹⁰ unques is omitted from Harl.¹¹ All the MSS. except Harl., ne de.¹² Harl., et de prendre lassise en droit de damages, instead of a recoverir de lassise agarde quant a frauntenement.

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A.D. 1342. answer.—*W. Thorpe*. Maud Manne did not have an answer when she was re-attached, and yet she was tenant.—*SHARSHULLE*. That was law, because she pleaded at first by bailiff, and on her plea the assise was awarded against her, and at that time she could have barred the assise; not so in the case put. And nevertheless *SHARSHULLE* said that, if a tenant plead a false or a bad bar, the person to whom the reversion belongs shall be and has been by judgment admitted to defend his right.—*Quære*.—And he said that, if a tenant plead to the assise, the person to whom the reversion belongs, if he be named, may be admitted to plead in bar.—*Pulteney*. If he should be admitted it would follow that he would plead a plea upon which the assise would be taken at large, and he who is found to be a discessor would perchance be acquitted.—*Grene*. If in any case through default of the tenant the person to whom the right belongs be admitted, and vouch a record, and fail thereof, still the assise will be taken at large as to the freehold, for the tenant will not lose by his plea; and by that assise perchance it will be found that the plaintiff was never seised; and so also it will be here, and so also after the assise awarded on the plea of the bailiff at any time before.—*HERLE*. It has been usual that a tenant or a wife admitted on the default of her husband should plead in assise by plea in bar, upon which he might have a certificate; and even when a tenant in his own person pleads to the assise, and the assise is afterwards without day, on the re-attachment he has been admitted to plead in bar.—*SHARSHULLE*. That is true.—*Stouford*. I have seen the wife admitted after the jurors of the assise were sworn.—*W. Thorpe*. That was on the same day on which the assise was awarded, but not on another day, &c.—*Moubray* said that the plaintiff desired his deliver-

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Maude Manne¹ navoit respons quant ele fuit reattache, A.D. 1342. et si fut ele tenant.—SCHAR. Ceo fut ley, qar ele pleda² par baillif primes, et sour soun ples lassise fuit agarde vers luy, a quel temps ele pout³ aver barre lassise ; *non sic in proposito*. Et tamen SCHAR. dit qe si tenant pleda un faux ou un malveis barre, qe celuy a qi la reversion appent serra et ad este par agarde resceu a defendre son dreit.—*Quære*.—Et dit qe si tenant plede al assise, qe celuy a qi la reversion est, sil soit nome, poet estre resceu de pleder en barre.—*Pult.* Sil fut resceu il ensiwereit qil pledereit plee sour quei assise serroit prise a large, et celuy qest atteint disseisour serroit par cas acquite.—*Grene*. Si en cas⁴ par defaute le tenant celuy a qi le dreit est soit resceu, et vouche recorde, et faille de ceo, unquore lassise serra pris a large quant al fraunctenement, qar le tenant ne perdra⁵ pas par son plee ; par quel assise par cas serra trove qe le pleintif ne fut unques seisi ; et auxi serra icy, et auxi apres assise agarde sour plee de baillif tut temps devant.—HERLE. Ad este use qe tenant ou femme⁶ resceu par defaute soun baroun pledereit en assise par plee en⁷ barre, sour quel il purreit aver certificacion ; et mesqe tenant en propre persone plede al assise, et lassise⁸ soit apres saunz jour, al reattachement il ad este resceu de pleder en barre.—SCHAR. Cest verite.⁹—*Stouf*. Jay vieu la femme estre resceu apres ceo qe ceux del assise furent jures.—[W.] *Thorpe*. Ceo fut a mesme le jour qe¹⁰ lassise fuit agarde,¹¹ mes noun pas a altre jour.—*Moubray* dit qe le pleintif coveit¹² sa deliveraunce, par

¹ 25,184. Moigne.² The words ele pleda are from T. alone.³ 25,184, purreit.⁴ L., ceo cas.⁵ 16,560 and 25,184, pledra.⁶ Harl., en fee, instead of ou femme.⁷ L., de.⁸ The words et lassise are omitted from L.⁹ The words SCHAR. Cest verite are omitted from L.¹⁰ J., et.¹¹ Harl., ajuge.¹² L., covynt ; 16,560, coveint.

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A.D. 1342. ance; wherefore [said *Moubray*] he tells you that, whereas James supposes the reversion to belong to him by reason that he leased to the tenant for the term of his life, ready, &c., that the tenant never had any thing by lease from James.—*Grene*. You shall not be admitted to that, for by your first abiding in judgment it was held as not denied that the tenant held by lease from us; and, besides, we are adjourned into this Court upon a certain point, so that the Court can not give judgment on any other point, nor listen to what you say of anything else; and besides, it is not an issue unless you say generally that we had nothing in the reversion.—*Pulteney*. When we pleaded that you had passed your time for your prayer to be admitted, nothing of the fact which you alleged can be held as not denied by us; but our plea was that, whether you have right or not, you are not capable of being admitted. And as to the other point which you mention, that the Court will not give judgment on any other point or listen to the party when saying anything besides that upon which the adjournment was made, it is not so; for if the tenant made default the Court would award the assise, and also, if upon a plea involving difficulty as to the abatement of the writ the cause were adjourned into this Court, and the writ were adjudged good, the tenant would plead in bar in this Court.—*Grene*. That plea would not be peremptory; but suppose that the plaintiff who is delayed of his assise makes himself a title and is adjourned into this

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quei il vous dit qe, ou ¹ James suppose la reversion estre A.D. 1342.
 a luy par cause qil lessa al tenant a terme de sa vie,
 prest, &c., qil navoit unques rien de son lees.-- *Grene.*
 A ceo ne serrez nient resceu, qar pas vostre primere
 deimure en jugement ceo fut tenu nient dedit qil tient
 de nostre lees; et, ovesqe ceo, nous sumes ajournes sour
 certeyn point ceinz ², issi qe Court ne poet sour altre
 point ajuger, ne vous escuter ³ daltre chose dire; et
 ovesqe ceo, ceo nest pas issue si vous ne deissiez general-
 ment qe nous nussoms rien en ⁴ la reversion.—*Pult.*
 Quant nous pledames ⁵ qe vous avez sursis vostre temps
 de vostre priere, rien del fait qe vous [alleggeastes poet
 estre tenu nient dedit de nous; mes nostre plee fut, le
 quel vous] ⁶ avez dreit ou nient, qe vous nestes pas
 resceyvable.⁷ Et lautre point qe vous dites,⁸ qe Court
 najuggera pas sour altre point, nescutera partie a dire
 altre chose forsqe celo sour quei lajournement est fait ⁹,
 il nest pas issi; qar si tenant fist defalte il agardera
 lassise, et auxi si ¹⁰ sour plee difficultous ¹¹ al abatement
 du bref le plee ¹² fut ¹³ ajourne ceinz ¹⁴, et le bref fuit
 agarde ¹⁵ bon, le tenant ceinz pledra ¹⁶ en barre.—*Grene.*
 Cel ¹⁷ plee ne serroit pas peremptorie; ¹⁸ mes mettez qe le
 pleintif qest arestu ¹⁹ dassise se face title, et soit ajourne

¹ Harl., un.² L., ceux.³ T., escoter; L., eschuter;
16,560, excuter.⁴ L., de.⁵ T., pledassoms.⁶ The words between brackets are
omitted from L.⁷ The words *causa qua supra* are
here inserted in 25,184.⁸ L., delites; the words qe vous
dites are omitted from Harl.⁹ The words est fait are omitted
from L.¹⁰ L., sa; the word is omittedfrom all the other MSS. except
25,184.¹¹ Harl., difficultif.¹² 16,560 and Harl., pleintif.¹³ Harl., fist.¹⁴ L., ceux.¹⁵ Harl., ajugge.¹⁶ L. and Harl., pleda.¹⁷ T., Tiel.¹⁸ The report ends here in L., in
which there are no more cases be-
fore Hilary Term in the 17th year
of the reign.¹⁹ Harl., resceu.

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A.D. 1342. Court on a difficulty, whether his title be sufficient or not, he can never in this Court add force to it or traverse any other point of the bar; so in the case put, because his plea was peremptory as to the admission, and inasmuch as he abode judgment on a matter of law, he shall not go back to that which depends upon fact.—*W. Thorpe*. The abiding of judgment was not peremptory; for even if the Court had adjudged that James was not capable of being admitted, he would not by that judgment have lost the reversion; therefore, *e contra*, the reversion was not affirmed to be in him by the manner of abiding judgment, for our plea was only (whether he had right or not) that he could not be heard to say anything because he had passed his time. And if you vouch in a *Precipe*, and I say that you shall not be admitted to vouch because you prayed aid of the same person as parcener, &c., and upon this we abide judgment in law, on another day I can say that neither the vouchee nor his ancestors ever had anything.—*SHARSHULLE*. I think not.—*R. Thorpe*. Suppose that we had prayed to be admitted by reason of a lease made by our ancestor, would you now be admitted to say that we are a bastard? (as meaning to say he would not). No more will you be admitted to say any other thing which is a question of fact, since you abode judgment on another point in law, and upon that you were adjourned into this Court; and if you had abode judgment on the point on which we abode judgment the Court must have adjudged that we should be either admitted or forejudged of admission; and now you have discharged the Court from judgment on the point on which we were adjourned; and you shall not be admitted to an averment which lies in fact; wherefore we pray to be admitted.—*SHARSHULLE*. We admit you.—*R. Thorpe*. There ought not to be an assise, because heretofore the plaintiff

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ceinz sour difficulte, le quel son tite soit sufficiaunt ¹ A.D. 1342. ou noun, jammes ceinz nel poet il afforcer ne traverser altre ² point del barre ; *sic in proposito*, pur ceo qe son plee fut peremptorie a la resceite, et quant il demura sour chose en ley, il resortera pas a ceo qe chiet en fait. — *W.*³ *Thorpe*. La demure ne fut pas peremptorie ; qar mesqe Court ust ajugge qil ne fut pas ⁴ resceyvable, il nust pas par cele agarde perdu reversion ; *ergo, e contru*, reversion par la manere de la demure ne fut pas afferme en luy,⁵ qar nostre plee ne fut forsqe, avoit il dreit ou noun, qil ne puit estre escote ⁶ a rien dire pur ceo qil avoit soursis son temps. Et si vous vouchez en un *Præcipe*, et jeo die qe vous ne serrez resceu pur ceo qe vous priastes eide de mesme la persone en parcenere, &c., et sur ceo demuroms en ley, a autre jour jeo dirray qe le vouche ne ses auncestres navoient unques rien.—*SCHAR*. Jeo quide qe noun.—*R.*⁷ *Thorpe*. Jeo pose qe nous ussoms prie par cause du lees fait par nostre auncestre, serrez ore resceu a dire qe nous sumes bastarde ? *quasi diceret non*. Nyent pluis ne serrez resceu a dire autre chose qe chiet en fait, del houre qe vous estes demure sour altre point en ley, et sour ceo estes ceinz ajourne ; et si vous ussez demure il covient sour nostre demure qe Court ust ajugge qe nous ussoms este resceu ou forjugge de la resceite ; et ore avez descharge Court del jugement sour quel nous sumes ajournes ; et al averement qe chiet en fait ne poez estre resceu ; par quei nous prioms estre ⁸ resceu.—*SCHAR*. Nous vous resceivoms.⁹—*R.*¹⁰ *Thorpe*. Assise ne deit estre, qar vers mesme ¹¹ cestuy nostre tenant,

¹ 16,560 and Harl., suffisant.

² Harl., sour altre.

³ W. is from 25,184 alone.

⁴ Harl., *mye* ; the word is omitted from 16,560.

⁵ Harl., ley.

⁶ Harl., excuse.

⁷ R. is omitted from T.

⁸ 25,184 and Harl., destre.

⁹ The record "Et, quia videtur

"Curis hic quod idem Jacobus

"in hoc casu admittendus est, ideo

"admittitur, &c."

¹⁰ R. is from 25,184 alone.

¹¹ mesme is omitted from Harl.

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A.D. 1342. brought a writ of Entry *ad terminum qui præterit*, against this same person, our tenant, by whose default, &c., and demanded certain tenements, when the tenant pleaded the plaintiff's release in bar, in which release the tenements in respect of which plaint is now made are comprised, and they were demanded by the same writ, and that release was denied, and the cause remains in this Court not tried; judgment whether an assise, &c. And *R. Thorpe* stated the alleged number of the roll.—*Moubray*. He pleads the use of a writ of a higher nature, and that plea does not lie in the mouth of any other person but a party to that record, because it does not extinguish the action, and the assignee of a party would not allege it; wherefore we pray the assise.—*Grene*. He does not deny that against our tenant, through whose default we are admitted, he demanded the fee and the right which repose in our person, and that by a writ of a higher nature, on which writ a plea was pleaded as to the right by our tenant—to wit, his release; judgment.—HILLARY adjudged that the plaintiff should take nothing, because he said nothing else as a reason for having the assise.

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par qi defaute, &c., le pleintif porta altrefoitz bref dentre A.D. 1342. *ad terminum qui præterit*, et demanda certainz tene-mentz, ou le tenant pleda en barre par souu relees, deinz quel relees les tenementz dount la pleynte est ore sount compris, et par mesme le bref furent demandes, quel relees est dedit, et demoert ceinz nient trie; jugement si assise, &c. Et alleggea noumbre de roule.¹—*Moubray*. Il plede user de bref de plus haut nature, quel ne gist en bouche daltre qe de partie a² cel³ recorde, pur ceo qe ceo⁴ nesteynt pas accion, et assigne de la partie nel alleggerait pas; par quei nous prioms assise.—*Grene*. Il ne dedit pas⁵ qe devers nostre tenant, par qi defaute nous sumes resceu, qil ne demanda fee et dreit quel repose⁶ en nostre persone, et par bref de plus haut nature, et en quel bref plee fuit plede en dreit par nostre tenant, saver⁷ soun relees; jugement.—*HILL*. agurda qe le pleintif prist rienz, pur ceo qil dit nule altre chose pur aver lassise.

¹ Thorpe's plea is represented in the record practically by a repetition of the plea of Lowargh above as to the writ of Intrusion (not of *ad terminum qui præterit*). The number of the earlier roll is not mentioned in this record, which concludes as follows:—

“ Et Rogerus dicit quod prædictus Jacobus non fuit pars recordo prædicto, quod superius allegavit, nec heres partis, immo omnino extraneus, unde petit iudicium si idem Jacobus ad allegandum recordum prædictum admitti debent, &c.

“ Et quia prædictus Jacobus admissus est ad defensionem juris sui per defaultam prædicti Johannis, qui nullum statum habuit nisi ad terminum vite ipsius Johannis, tantum, et in jure ipsius Jacobus, ut prædictum est, videtur

“ Curiam hic quod in ore ipsius Jacobus jacet recordum prædictum allegare. Et idem Rogerus non dedit recordum illud, nec aliquid aliud in manutentionem brevis sui assise, &c., respondet. Ideo consideratum est quod idem Jacobus eat inde sine die, et prædictus Rogerus de Heuyne nihil capiat per assisam istam, sed sit in misericordia, &c.”

² All the MSS. except Harl., et a. 25, 184, tiel.

³ Harl., qil, instead of qe ceo.

⁴ In Harl. the words *user de bref* are inserted after *pas*, but in a later hand.

⁵ 16,560, *quele relees*; Harl., *quele relees afferme dreit*, instead of *quel repose*.

⁷ The words *nostre tenant saver* are from Harl. alone.

Nos. 46, 47.

A.D. 1342. (46.) § Note that *Grene* came and showed that two
 Statute persons had made a recognisance on Statute Merchant
 Merchant: to one A., upon which a certificate was sued, and process
 Note. was so far continued that one of them was taken and
 his lands were delivered; and the person who was taken
 prayed a writ to take the body of the other, so that he
 might be a partner in the charge as he was in the
 obligation.—SHARDELOWE. How can this be without
 suit by the plaintiff?—*Grene*. It is not reasonable that
 one should be charged with the whole; wherefore he
 prays the writ to discharge himself.—*Pulteney*. If two
 persons be bound to me in a debt, and I recover against
 them, I shall have execution, at my election, either
 against one alone or against both.—*Grene*. He has elected,
 and has commenced his suit against both in this case.—
 And then *Grene* had the writ.

Process. (47.) § Note that in a plea which was removed out of
 the county of Chester into the Common Bench, because
 a person foreign to that County was vouched, process was
 continued against the vouchee until now, when the *Sequa-*
tur suo periculo is returnable, and no writ is returned,
 and the tenant is now essoined; and the vouchee appeared
 by attorney.—*Seton*, for the demandant, said that by the
 record it appears that after the voucher the tenant was
 essoined in the County of Chester, so that he cannot
 now again be essoined, and he has not sued; wherefore
 we pray seisin.—SHARDELOWE. He was never essoined
 in this Court after the voucher; wherefore an essoin
 lies now.—Afterwards the tenant appeared, and the
 warrantor, by attorney, ready to warrant.¹

¹ No. 76 below is probably the conclusion of this case to which reference is made in the Harleian MS.

Nos. 46, 47.

(46.)¹ § *Nota* qe *Grene* vint et moustra qe deux A.D. 1342.
 avoint fait une reconisance sour estatut marchaunt a un Statut
 A., sur quei certificacion fut suy, et proces atant continue marchand :
 qe lun est pris et ses terres liveres ; et celui qest pris *Nota.*
 pria bref de prendre le corps lautre, issi qil puisse estre [Fitz.
 parcnere en la charge come il est al obligacion.— *Execu-*
 SCHARD. Coment purra ceo estre saunz la suyte le cion, 48.]
 pleintif?—*Grene.* Il nest pas resoun qe lun soit entiere-
 ment charge ; par quei en descharge² de luy il prie le
 bref.—*Pult.* Si deux soient obliges a moy en dette, et
 jeo recovere vers eux, javeray execucion vers lun soul ou
 tout deux a ma elite.—*Grene.* Il ad eslu,³ et comence
 sa suyte vers les deux en ceo cas.—Et puis *Grene* avoit
 le bref.

(47.)¹ § *Nota* qe en un plee⁵ remue hors del Counte Proces.⁴
 de Cestre en Comune Baunk pur ceo qe forein fut vouche, [Fitz.
 proces fut continue vers le vouche tanqe ore qe le *Essone,*
Sequatur suo periculo est retournable,⁶ et nul bref 167.]
 retourne, et le tenant est ore essone ;⁷ et le vouche fut
 par attourne.—*Setone*, pur le demandaunt, dit qe par le
 recorde il appiert qe le tenant puis le voucher fut
 essone⁷ el counte de Cestre, issi qe a ore ne poet il altre-
 foitz estre essone,⁷ et il nad pas suy ; par quei nous
 prioms seisine.—SCHARD. Puis le voucher il ne fut
 unques essone ceinz ; par quei lessone⁸ gist a ore.—Puis
 le tenant apparust, et le garrant par attourne, prest a
 garrantir.⁹

¹ From T., 16,560, 25,184, and Harl.

² The words par quei en descharge are omitted from 25,184.

³ Harl., esliu.

⁴ T., *Nota*.

⁵ 16,560 and Harl., parole.

⁶ All the MSS. except T., retourne.

⁷ Harl., exone.

⁸ Harl., lexone.

⁹ In Harl. are added the words following :—"Jeo crey qil serroit
 " resceu a garrantir par attourne.
 —*Vide residuum post.*

Nos. 48, 49.

A.D. 1342. (48.) § In a Formedon on frank-marriage the gift
 Verdict in as supposed by the writ of summons was traversed.
 Formedon. By verdict it was found that the land was given by
 a charter, which was shown in evidence; and the
 charter purported that the gift was made in frank-
 marriage, to have and to hold to the donees and their
 heirs for ever, with warranty of the fee simple.—*Grene*.
 The gift is found to be as the writ supposes; judgment,
 and we pray seisin.—*SHARSHULLE*. It seems to us that
 the inquest is not sufficiently taken, and that the mise
 of the parties is not sufficiently enquired of; for it is
 not for us to adjudge whether fee simple or frank-
 marriage passed by the charter; wherefore there must
 be a fresh enquiry.—*Pole*. There has been sufficient
 enquiry, for the gift is found; and although more be
 found, that does no harm, since the issue is found.—
HILIARY. You are delivered; there must be another
 enquiry; for we will not take upon ourselves to give
 judgment, &c., if the inquest has not given a verdict ex-
 pressly on the mise.—*Grene*. The Justice could not
 obtain any other verdict.—*SHARSHULLE*. He ought to
 have compelled them; therefore let enquiry be had
 again.

Avowry
 for a
 heriot.

(49.) § *Derworthy*. John Smyth avowed the taking
 for the reason that A., the plaintiff's husband, held of
 him a messuage, &c., by certain services, and by heriot,
 to wit, the best beast of the deceased, after the death of
 every tenant, the tenements being within the fee of J.,
 within which fee tenements are subject to heriot, and the

Nos. 48, 49.

(48.)¹ § En fourme de doun de fraunk mariage le doun² fut traverse prout per breve summonitionis supponitur. Par verdict fut trove qe la terre fut done par une chartre, quele fut moustre en⁴ evidence; et la chartre voleit qe le doun se fist en fraunk mariage, a aver et tener a eux et a lour heirs a touz jours, ove garrantie de fee simple.—*Grene*. Trove est le doun com le bref suppose; jugement, et prioms seisine.—*SCHARS*. Il nous semble qe lenqueste nest pas suffisamment⁵ pris, ne la mise des parties enquis;⁶ qar il nest pas a nous dajugger le quel par la chartre passa fee simple ou fraunk mariage; par quei il covient enquere de novel.—*Pole*. Il y ad assez enquis, qar le doun est trove; et tout soit plus trove, ceo ne greve pas, del houre qe lissue est trove.—*HILL*.⁷ Vous estes delivers; il covient altrefoitz enquere; qar nous ne voloms pas emprendre sur nous dajuger,⁸ &c., si lenqueste nust dit expressement sour la myse.—*Grene*. La Justice ne poet altre verdict aver.—*SCHARS*. Il les duist aver chace.—*Ideo alias inquiratur*.

A.D. 1342.

Verdit en
forme de
doun.³[Fitz.,
Verdit,
21.]

(49.)⁹ § *Derworthi*. Johan Smyth avowa la prise, par la resoun qe A., baroun la pleintif, tynt de luy un mies, &c., par certeys services, et par heriete, saver la meillour beste le¹⁰ mort, apres¹¹ la mort de chescun tenant, quex tenementz sont deinz le fee J., deinz quel fee les tenementz¹² souut heriotables,¹³ et lavowaunt et ses

Avowerie
pur
heriete.
[Fitz.
Hariott,
2.]

¹ From T., 16,560, 25,184, and Harl., until otherwise stated.

² The marginal note in 25,184 is *Proces*.

³ 25,184, bref.

⁴ T., par.

⁵ T., sufficient.

⁶ enquis is omitted from 25,184.

⁷ The case, and the reports of the term end here abruptly in 16,560.

⁸ 25,184, damages.

⁹ From T., 25,184, and Harl., but

corrected by the record, *Placita de Banco*, Mich., 16 Edw. III., R. 133.

It here appears that the action was brought by Margery late wife of John Brewere. The fee mentioned was that of Otford in Kent.

¹⁰ Harl., au.

¹¹ The words le mort apres are omitted from 25,184.

¹² Harl., tout les tenants, instead of les tenementz.

¹³ 25,184 and Harl., heritables.

No. 49

A.D. 1342. avowant and his ancestors, &c., have been seised of the heriot from tenants of the same tenements from time of which there is no memory; and because, after the death of A., the avowant found the cow, in respect of which the plaint is made, which belonged to the deceased at the time of his death, in parcel of the said tenements, he avowed the taking in the name of heriot.—*Gaynesford*. He supposes that the cow belonged to the deceased at the time of the taking, which is contrary to my plaint; and I will aver that it was my cow; for if the tenements were subject to heriot, which we do not admit, unless the beast was found in the possession of the executors, he could not take it, because, if it was sold to another, he would not have it, &c.—HILLARY. To whomscever the beast was sold, if it belonged to the deceased at the time of his death, and the lord found it in parcel of the tenements holden of him by such services, he could take it.—*Pulteney*. If otherwise, it would follow that the lord would never have a heriot, because the executors would sell it immediately.—SHARSHULLE. If I had been of counsel for the lord, the deliverance would not have been made.—*Gaynesford*. He founds his avowry on prescription in the tenements, and also on a custom within a certain fee, which are two titles; judgment, because if I were to deny one the other would be held as not denied, and that would be a sufficient cause to maintain the avowry.—SHARSHULLE. It is necessary to have both, for a heriot is contrary to common right.—And then by consent they were at issue as to whether the customs of the fee, &c., were such or not, &c.

No. 49.

auncestres, &c., seisiz del heriete¹ des tenantz de mesmes A.D. 1342.
 les tenementz de temps dount memorie nest; et pur ceo
 qe, apres la mort A., il trova la vache dount la plainte
 est, quele fuit au² mort au temps de sa mort [en parcelle
 des ditz³ tenementz,⁴ il avowa la prise en noun de
 heriete.—*Gayn.* Il suppose la vache au mort]⁵ au temps
 de la prise, qest a contrarie de ma plainte; et⁶ jeo voille
 averer quele fuit la moi vache; qar si les tenementz
 fuissent herietables, com nous ne conissoms pas, si la
 beste ne fut trove en possession des executours, il ne la
 prendreit pas, qar, si ele fut vendu a altre, il lavera pas,
 &c.—*HILL.* A qi qe la beste soit⁷ vendu, si ele fut au
 mort au temps de soun moriaunt, et le seigneur la trovast
 en parcelle des tenementz de luy tenuz par tieux services,
 il la prendreit.—*Pult.* Si autrement, ensiwereit qe seigneur
 navereit jammes heriete,⁸ qar les executours la⁹ ven-
 droint tauntost.—*SCHAR.* Si jeo usse este du conseil le
 seigneur, la deliveraunce¹⁰ nust pas este fait.—*Gayn.* Il
 lie¹¹ savowere par prescripcion en les tenementz, et auxi
 par usage deinz certain fee, qe sount deux titles; juge-
 ment, qar si jeo dedeisse¹² lun, lautre serroit tenu nient
 dedit, qe serroit cause suffisaunte¹³ de meyntener
 lavowere.—*SCHARD.* Il¹⁴ bosoigne davoir lun et lautre,
 qar heriete⁸ est countre comune dreit.—Et puis de gree
 sount a issue si les usages del fee, &c., soient¹⁵ tieux, ou
 noun, &c.¹⁶

¹ "de herietto capiendo," accord-
 ing to the record.

² Harl., a la.

³ ditz is from Harl alone.

⁴ Harl., tenantz.

⁵ The words between brackets are
 omitted from 25,184.

⁶ et is from T. alone.

⁷ Harl., fut.

⁸ Harl., heritage.

⁹ T., les.

¹⁰ T., replevyne; 25,184, plainte.

¹¹ Harl., luy.

¹² 25,184, dedisse; Harl., dedisse.

¹³ T., suffisaunte.

¹⁴ It is omitted from T.

¹⁵ Harl., sont.

¹⁶ In the roll there is no issue.
 The case ends with the avowry.

Nos. 50, 51.

A.D. 1342.

Avowry.

(50.) § Avowry for the reason that the plaintiff holds of the avowant one messuage and one virgate of land, by fealty, &c., and by doing suit to his mill of A., by grinding at the said mill all the corn which shall be consumed in the said messuage, so that he shall come with his corn to the said mill and there remain for two days if he cannot sooner have finished, and the third day until sunset, and if he have not then ended, go where he pleases; of these services the avowant was seised, &c.; and because the plaintiff had withdrawn for a year the suit to the mill, he avows the taking of the two horses as in parcel of the aforesaid tenements holden of him, &c.—And on confession of the avowry the Return was awarded.

Previous
abatement
of writ of
Entry re-
versed.

(51.) § The Prior of Kenilworth heretofore brought a writ of Entry in the Common Bench, at common law, in the *Per* and *Cui*,¹ against a tenant, supposing the entry to have been through his tenant for term of life; and because the death of the tenant for life was not supposed by the writ, the writ was there abated. And now in the King's Bench, because the demandant cannot have a writ in any other form, the judgment was reversed; and the demandant continued his suit there in the same Court, notwithstanding the words of Magna Charta, to wit, *communia placita non sequantur curiam nostram*, because the plea is there by default of another.

¹ See above Y.B. Trin. 16 E. III., No. 31.

Nos. 50, 51.

(50.)¹ § Avowere par la resoun qe le pleintif tynt del avowaunt un mies, une verge de terre, par fealte, &c., et a faire suite a soun molyn de A., de mouldre al dit molyn touz les blees qe serrount despenduz en le dit messuage, issi qil vendra ove² son ble au dit molyn et la demura par deux jours sil ne purra plus tost estre delivers,³ et le terce jour tanqe le solail rescous, et sil ne soit adonques espleite⁴ daler ou bon⁵ luy soit; des quex services il fut seisi, &c.; et pur ceo qe le pleintif par un an avoit sustret la suyte au molyn, il avowe la prise de les deux chivals come en⁶ parcel des tenementz avanditz de luy tenuz, &c.—Et sur nient dedire retourn agarde.

A.D. 1342.
Avowerie.
[Fitz.
Avowere,
92.]

(51.)⁷ § Le Priour de Kenilworthe porta autrefoitz bref dentre en comune Baunk, a la comune ley, en le *per* et *cui*, vers un tenant, supposant lentre par son tenant a terme de vie; et pur ceo qe par bref la mort le tenant a terme de vie nest pas suppose, le bref illoeqes fut abatu. Et ore en Baunk le Roi pur ceo qe le demandant ne poet aver bref sour altre fourme, le jugement⁸ fut reverse; et le demandaunt suist illoeqes avant en mesme la place *non obstante Magna Charta, saver quod communia placita non sequantur curiam nostram*, pur ceo qe le ple est illoeqes en altri defaute.

Bref
Dentre
autrefoitz
abatu ore
reverse.⁸
[Fitz.
Briefs,
661.]

¹ From T., 25,184, and Harl., but compared with the record, *Placita de Banco*, Mich., 16 Edward III., Ro. 379d. It there appears that the action was brought by John Harlewyne against Robert de Penebrugge. The case resembles that brought against the same defendant, and reported in Trinity Term next preceding, No. 51.

² Harl., od.

³ 25,184, deliveres.

⁴ Harl., esplete.

⁵ Harl., leal.

⁶ 25,184, de.

⁷ From T., 25,184, and Harl. For the records, &c., see above Trinity Term, No. 31.

⁸ The words autrefoitz abatu, ore reverse are omitted from Harl.

⁹ T., original.

No. 52.

A.D. 1343. (52.) § Avowry, for the reason that the plaintiff
Avowry. holds of the avowant by homage, fealty, and scutage, to wit, when the scutage runs at 40s., four pounds, &c., and by the services, &c., of rendering aid to the Sheriff, to wit, 8s. 6d., and 8s. for the castle-ward of the castle of Rockingham, to be paid at two terms, &c., and by equal portions, of which services the avowant's father was seised by the hand of the plaintiff, &c.; and because the homage, fealty, and the aforesaid money for rendering aid to the Sheriff and for the castle-ward were in arrear for one year, he avows for the aforesaid money as in parcel, &c.—*Grene*. Judgment of the avowry, for he avows for that which is to be paid, as is commonly understood, to another, and he does not show that he himself is charged, as by saying that he has paid it to the other; judgment of the avowry.—SHARSHULLE. Answer; this is not the first time that we have heard a plea of this kind.—*Grene*. We tell you that his great-great-grandfather¹ by this deed enfeoffed and confirmed to our great-grandfather¹ the same

¹ For the relationships, as stated in the record, see p. 449, note 3.

No. 52.

(52.)¹ § Avowere par la resoun qe le pleintif tynt de luy, &c. par homage, fealte, et escuage, saver quant lescu court a xls. iiijl., &c., et par les services, &c., a faire eide a Vicounte, saver viiij s. et vjd.,² et viij s.³ a la garde du chastel de Rokyngham, a paier a deux termes, &c., et par owels porcions, des quex services le pere⁴ lavowaunt fut seisi par la mayn le⁵ pleintif, &c.; et pur ceo qe lommage, fealte, et les avanditz deners de⁶ faire eide de Vicounte et garde du chastel par un an furent arere, il avowe pur les avantditz deners come en parcele, &c.—*Grene.* Jugement del avowere, qar il avowe pur chose qest a paier, de comune entente, a altre, et il ne moustre pas qil est mesme charge, come a dire qil ad⁷ paie a autre; jugement del avowere.—*SCHAR.* Responnez; ceo nest pas le primer qe nous avoms oy en le cas.—*Grene.* Nous vous dioms qe soun tresaiel, par ceo fait, feffa et conferma⁸ a nostre besaiel⁹ mesmes les tenementz [a

A.D. 1342.
Avowerie.
[Fitz.
Avowere.
92.]

¹ From T., 25, 184, and Harl., but corrected by the record, *Placita de Banco*, Mich., 16 Edw. III., R^o. 358. It there appears that the action was brought by Geoffrey Rydel, knight, against Nicholas de St. Mark, John Porter, of Thornhaghe, and Geoffrey Sturgys. The avowry was "quod predictus Galfridus Rydel tenet de eo [Nicholas] manerium de Wyteryng per homagium, fidelitatem, et ad scutagium domini Regis quadraginta solidorum, cum acciderit, quatuor libras, et ad plus plus, &c., et ad minus minus, &c., et per servitium faciendi quolibet anno ad auxilium Vicecomitis Comitatus predicti [Northampton] octo solidos et sex denarios ad duos anni terminos, videlicet ad Festa Pasche et Sancti Michaelis, per equales portiones solvendas, et reddendi quolibet anno ad war-

"dam Castri de Rokyngham octo solidos ad eodem terminos, de quibus servitiis quidam Johannes de Sancto Marco, pater ipsius Nicholai, cujus heres ipse est, fuit seiscitus per manus predicti Galfridi Rydel, ut per manus veri tenentis sui, &c.," and that the beasts were taken for Geoffrey's homage, and fealty, and money for aid to the Sheriff, and for castleward, in arrear.

² MSS. of Y.B., ijs., instead of viijs. et vjd.

³ MSS. of Y.B., ix.

⁴ MSS. of Y.B., laiel, instead of le pere.

⁵ MSS. of Y.B., launcestre le.

⁶ Harl., pur lesserviz de.

⁷ T. and 25, 184, est.

⁸ The words et conferma are from Harl. alone.

⁹ Harl., aiel; the other MSS. of Y.B. tresaiel.

No. 52.

A.D. 1342. tenements, to hold of him by the services of two knights' fees, and afterwards his great-grandfather ¹released and confirmed to our grandfather ¹the same tenements and all his right, saving to himself the services of the two knights' fees reserved by his father; judgment whether contrary to the deeds, &c.; and we tell you that the avowant himself is seised of the sixteenth part.—SHARSHULLE. Hold to one deed.—*Grene* held to the release.—*R. Thorpe*. This plea is double; one is the deed of our ancestor which extinguishes that for which we have avowed; the other is that we are seised of parcel of the land, whereas, although the rent continued notwithstanding the deed, still for the portion the proportionate amount shall be recouped.—*W. Thorpe*. We speak of that only to be able to protest hereafter when you shall

¹ For the relationships, as stated in the record, see p. 449, note 3.

No. 52.

tener de luy par les services de deux fees de chivaler, et puis soun besaiel releessa et conferma a nostre aiel mesmes les tenementz,]¹ et tut soun dreit, salvant a luy les deux fees de chivaler reserves par soun pere; jugement si countre les faitz, &c.; et vous dioms qil est mesme seisi de la xvj.² partie.³—SCHAR. Tenes vous a lun fait. *Grene* se tint⁴ al relees.—*R. Thorpe*. Ceo plee est double; un est le fait nostre auncestre qesteint ceo pur quei nous avoms avowe; altre est qe nous sumes seisi de parcele de la terre, ou tut demura la rente *non obstante* le fait, unquore pur la porcion taunt⁵ serra recoupe.—*W.⁶ Thorpe*. Nous parloms de cel forsqe pur protester

¹ The words between brackets are from T. alone.

² 25,184, vj.

³ The plea, according to the record, was "(non cognoscendo quod ipse est tenens de integro manerii prædicti, sed protestando quod prædictus Nicholaus tenet sextam decimam partem ejusdem manerii) quod quidam Petrus de Sancto Medardo, antecessor prædicti Nicholai, cujus heres ipse est, per chartam suam dedit, concessit, et charta illa confirmavit Hugoni Rydel, proavo ipsius Galfridi, cujus heres ipse est, manerium prædictum cum pertinentiis, per nomen de Wyteryng cum omnibus eidem pertinentibus, habendum et tenendum eidem Hugoni et heredibus suis de ipso Petro et heredibus suis per servitium duorum militum. Et de ipso Hugone descendit manerium prædictum cum pertinentiis cuidam Ricardo ut filio et heredi, &c., in cujus seisinâ quidam Galfridus de Sancto Medardo filius et heres

" prædicti Petri et abavus prædicti
" Nicholai, cujus heres ipse est,
" per scriptum suum concessit et
" confirmavit ipse Ricardo Rydel
" avo ipsius Galfridi, cujus heres
" ipse est, et heredibus suis totum
" manerium prædictum cum perti-
" nentiis, per nomen de Wyteryng
" et omnibus eidem Wyteryng per-
" tinentibus, tenendum de ipso Gal-
" frido et heredibus suis per servi-
" tium duorum militum, prout charta
" patris ipsius Galfridi de Sancto
" Medardo testatur, et profert hic
" prædictum scriptum sub nomine
" ipsius Galfridi de Sancto Me-
" dardo abavi, &c., quod hoc idem
" testatur; unde petit judicium si
" prædictus Nicholaus contra scrip-
" tum illud, quod est factum ante-
" cessoris sui, cujus heres ipse est,
" pro aliis servitiis quam in eodem
" scripto continentur, prædictam
" captionem justam super ipsum
" advocare potest."

⁴ T., sistent; Harl., ceo tient.

⁵ T. and 25,184, ceo.

⁶ W. is omitted from T. and Harl.

No. 52.

A.D. 1342. avow for something due; besides, the place is parcel of what we hold; and also it is possible perchance that you hold the sixteenth part, and that in the same parcel your seignory remains as a term for years, in which case the rent is not extinguished but suspended.—*R. Thorpe*. For that purpose there is no need to make protestation, for if we were only a farmer we should pay our farm and have our services, &c.—*SHARSHULLF*. Answer; his answer is sufficiently certain.—*R. Thorpe*. You see plainly that he does not employ the deed as one made since time of memory, nor yet does the deed extinguish the services for which we have avowed; for, although he may hold by knight-service, he may render such services; besides, this is not a feoffment or confirmation which is at common law, and therefore the law does not put us to answer this.—*W. Thorpe*. Is it the deed of your ancestor?—*Grene*.¹ We do not admit that it is the deed of our ancestor, and we tell you that we hold those tenements and others of the Abbot of Bury by knight-service, and we render for the portion such service besides.—*R. Thorpe*. We and our ancestors have been from all time seised by the hands of the plaintiff and of his ancestors; judgment. And he did not dare to abide judgment there, but said that the avowant and his ancestors had been seised as above, without this that the plaintiff had any such ancestor as the deed purports since time of memory; ready, &c.—And the other side said the contrary.

¹ So in the MSS.; but there appears to be some mistake, as Grene was counsel for the plaintiff.

No. 52.

altrefoitz quant vous avoweres pur chose due : ovesqe A.D. 1342.
 ceo, le lieu est parcele de ceo qe nous tenoms ; et auxi il
 est possible par cas qe vous tenes la xvj. partie, et qe
 en mesme la¹ parcele vostre seignurie demoert come
 terme des aunz, en quel cas rente nest pas esteinte mes
 suspendu.—*R.² Thorpe.* A cel effect ne bosoigne pas de
 faire protestacion, qar si nous fuissions forsque fermer
 nous payeroms nostre ferme et averoms nos services.—
SCHAR. Respondez ; soun respons est assez en certeyn.
R.² Thorpe. Vous veiez bien coment il ne use pas le fait
 come ceo qe fut fait puis temps de memoire, ne le³ fait
 unquore⁴ nesteint pas services pur quex nous avoms
 avowe ; qar, mesqil tiegne par service de chivaler il poet
 faire tiels services ; ovesqe ceo, ceo⁵ nest pas feffement
 ne⁶ confermement quel est a la comune ley, par quei⁷
 ley ne nous mette pas a ceo respondre.—[*W.*] *Thorpe.*
 Est ceo le fait vostre auncestre ?—*Grene.* Nous conissons
 pas qe ceo soit le fait nostre auncestre, et vous dioms qe
 nous tenoms ceux tenementz et altres del Abbe de Burgh
 par service⁸ de chivaler, et fesoms pur la porcion autiel
 service⁹ outre.—*R. Thorpe.*¹⁰ Nous et nos auncestres
 seisiz par sa mayn et de ses auncestres de tout temps ;
 jugement. Et nosa pas demurer la, mes dit qil et ses
 auncestres avoient este seisiz *ut supra*, saunz ceo qil
 avoit nul tiel auncestre come le fait purporte puis temps
 de memoire ; prest, &c.¹¹—*Et alii e contra.*

¹ T., cele, instead of mesme la.

² R. is omitted from 25,184.

³ 25,184, il ne, instead of ne le.

⁴ unquore is omitted from Harl.

⁵ The second ceo is from Harl. alone.

⁶ 25,184 and Harl., mes.

⁷ Harl., qy.

⁸ Harl., vj fees.

⁹ T., autieux services, instead of autiel service.

¹⁰ T. and 25,184, et, instead of *R. Thorpe.*

¹¹ The pleadings on the roll subsequent to the plea, are the following:—

“ Et Nicholaus dicit quod, cum
 “ prædictus Galfridus per protesta-
 “ tionem suam superius factam
 “ supponit ipsum Nicholaum esse
 “ seisitum de sextadecima parte
 “ manerii prædicti, ipse non est

No. 53.

A.D. 1342.
Assise of
Novel
Disseisin.

(53.) § Assise of Novel Disseisin brought in the country before HILLARY against a man and his wife and a third person. The wife by bailiff pleaded to the Assise. The husband said that the wife had nothing, but that he was tenant, and he vouched the third person, who warranted to him and said that the plaintiff ought not to have assise, because the plaintiff heretofore brought an assise against the father of the tenant [by warranty], when the father said that he entered by

No. 53.

(58.)¹ § Assise de Novele Disseisine porte en pais devant
 HILL. vers un homme et sa femme et le terce. La femme
 par baillif pleda al assise. Le baroun dit qe la femme
 navoit riens, mes il fuit tenant, et voucha le terce, qe
 luy garrantist, et dit qe le pleintif ne devoit assise aver,
 qar le pleintif porta altrefoitz assise vers le pere le

A.D. 1342.

Assise de
 Novele
 Disseisine.
 [16 Li.
 Ass. 19.
 Fitz. Re-
 corde, 86;
 Resceit,
 104.]

" seisitus de eodem sexta-decima
 " parte nec de aliqua parte ejus-
 " dem manerii, nec etiam cognoscit
 " ipsum Galfridum Rydel habuisse
 " aliquem talem antecessorem Ri-
 " cardum Rydel nomine, sed dicit
 " quod prædictus Johannes pater
 " ipsius Nicholai, cujus heres ipse
 " est, fuit seisitus de serviitiis præ-
 " dictis per manus ipsius Galfridi
 " ut per manus veri tenentis sui
 " prout in advocare suo prædicto
 " supponitur, et idem Johannes
 " et antecessores sui de eisdem ser-
 " vitiis per manus ipsius Galfridi
 " et illorum quorum statum ipse
 " habet a tempore quo non extat
 " memoria, absque hoc quod præ-
 " dictus Galfridus de Sancto Me-
 " dardo filius Petri de Sancto Me-
 " dardo antecessor suus, sub cujus
 " nomine scriptum prædictum su-
 " perius prolatum est, unquam fuit
 " in rerum natura post tempus
 " memoris, et hoc paratus est veri-
 " ficare; unde petit judicium si
 " ipse virtute scripti illius de advo-
 " care suo prædicto pro serviitiis
 " prædictis præcludi debeat, &c.
 " Et Galfridus Rydel dicit quod
 " ipse non cognoscit seisinam præ-
 " dicti Johannis patris Nicholai et
 " antecessorum suorum a tempore
 " quo non extat memoria, sed dicit
 " quod prædictus Galfridus de
 " Sancto Medardo filius Petri de
 " Sancto Medardo fuit in rerum
 " natura post tempus memoris."

On this issue was joined. The re-
 cords ends with the award of the
Venire.

¹ From T., 25, 184, and Harl., but
 corrected by the record, *Placita de*
Banco, Mich., 16 Edw. III., R^o. 394.
 It there appears that the assise was
 brought by John Richeman against
 John de Chitterne and Christina his
 wife, Richard de Chitterne, and six
 others (who did not appear), in
 respect of two messuages, fourteen
 acres of land, and one acre of mead-
 ow in Northover-by-Ilchester.
 John de Chitterne answered as his
 wife's bailiff "et dixit quod ipse
 " nihil habuit in tenementis,"
 whereon issue was joined to the
 Assise. John de Chitterne as
 tenant pleaded that the tenements
 put in view were only one mes-
 suage, thirteen acres of land, and
 one acre of meadow, in respect of
 which he vouched Richard de Chit-
 terne to warrant. Richard war-
 ranted *gratis*, and pleaded the re-
 cord of the previous assise brought by
 the plaintiff against Richard's father.
 The plaintiff's replication was *nul-
 tiel record*. After adjournment the
 plaintiff, and the vouchee, and Chris-
 tina appeared, but not Christina's
 husband. The record, having been
 removed into Chancery by *Certio-
 rari*, was sent to the Justices of
 Assise by *Mittimus*, and is set out
 at length on the roll.

No. 53.

A.D. 1342. the plaintiff's deed without tort, and, this being found by the assise, it was adjudged that the plaintiff should take nothing; and the tenant by warranty now demanded judgment whether assise, &c. He was told that he must produce his record. At another day he brought a record, by which it was supposed that the plaintiff and his wife brought an assise against the father of the tenant by warranty, and in all other respects as the tenant alleged. And for the plaintiff it was alleged that he had failed of his record. The woman who is named in the present writ then came, and said that her husband then first made default, and said that it was her freehold and she prayed to be admitted. And upon this they were now adjourned into the Bench.—*R. Thorpe*. The wife as before prays to be admitted, be-

No. 53.

tenant ou il dit qil entra par soun fait saunz tort, et, ceo A.D. 1342.
trove par assise, fut agarde qil prist rien, et demanda
jugement si assise, &c. Dit luy fut qil ust soun recorde.
A un altre jour il porta recorde par quel fuit suppose qe
vers soun pere le pleintif et sa femme¹ porterent²
une assise, et tut outre com le tenant allegea. Et pur
le pleintif fuit allegge³ qil avoit failli de soun recorde.⁴
La femme qest ore nome vint adonques et dit qe adonques
son baroun fist defaute a primes, et dit qe ceo fuit soun
fraunctenement, et pria destre resceu. Et sur ceo sount
ajournes ore en Baunk.⁵—*R. Thorpe.* La femme come

¹ T., et sa mere le pleintif; 25,134, et sa femme le pleintif, instead of le pleintif et sa femme. The earlier assise was, according to the record, brought by John Richeman and Clementia his wife against John de Chitterne and five others.

² T. and 25,134, porta.

³ The words et pur le pleintiff fuit allegge are omitted from Harl.

⁴ What the plaintiff said was, according to the roll:—"quod in recordo prædicto ibidem misso continebatur quod quædam assisa transivit . . . inter quosdam Johannem Richeman de Northovere et Clementiam uxorem ejus querentes et prædictum Johannem de Chitterne, quod quidem recordum de jure intelligi debuit aliud quam illud quod prædictus Ricardus superius allegavit, pro eo quod in eodem fit mentio de aliis personis, &c., unde petiit judicium ex quo prædictus Ricardus defecit de recordo quod superius allegavit," &c.

⁵ The adjournment into the Bench was later, according to the record. When Christina prayed to be admitted before the Justices of Assise

"Johannes Richeman dixit quod prædicta Christina ad defensionem juris sui admitti non debuit, &c., quia dixit quod prædictus Johannes vir, &c., alias vocavit ad warrantizandum prædictum Ricardum qui ei warrantizavit, et per cujus placitum prædicta tenementa adtunc fuerunt amittenda et non pro defalta prædicti Johannis, &c., unde petit judicium si ipsa ad defensionem juris sui in hoc casu admitti debuit, &c.

"Et prædictus Ricardus dixit quod quamvis in recordo ibidem misso continebatur quod quidam Johannes Richeman de Northovere et Clementia fuerunt querentes in assisa illa idem tamen Johannes Richeman de Northovere est ille idem Johannes Richeman qui tunc querebatur. Et in recordo illo expresse continetur quod prædictus Johannes pater ipsius Ricardi retinuit, &c., per judicium super veredicto Assise redditum, unde petiit judicium si recordum illud ei ad præcludendum ipsum Johannem Richeman ab assisa prædicta valere non deberet."

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A.D. 1349. cause she never had any time before her husband made default, and her freehold may be lost, and she is named [in the writ] so that she can not have an Assise or a *Cui in vita*; and although her husband be warranted, it is in respect of his separate tenancy, for which she can not recover to the value; wherefore on account of the mischief she ought to be admitted.—*Pole*. She can not be admitted except by reason of her husband's default, and when judgment is about to be given on his default; but in this case when he was warranted he was out of Court, and the Court can never afterwards award an assise or give any other judgment by reason of his default, so that by law she is not capable of being admitted; and as to the mischief, the same mischief might be assigned if the husband were still in Court and had pleaded the like plea.—*Grene*. If a husband allows another who is not tenant to take upon himself the tenancy and to plead in bar, on another day, if he make default, his wife who is named will come and say that she is tenant and not the other, and will be admitted; so also in this case, since there is no default in the wife, but more properly it was the default of the plaintiff, for he could have stopped the husband's voucher because the husband was not tenant as he supposed by his voucher, we demand judgment.—*Notton*. In this case the wife will have an assise after the death of her husband, notwithstanding that she is named, because

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avant prie destre resceu, qar ele navoit unques temps A.D. 1342. devant qe son baroun fist defaute, et son fraunctenement est a perdre, et ele est nome, issi qe ele ne poet aver Assise ne *Cui in vita*; et tut soit soun¹ baroun garranti cest de sa severale² tenance, de quei ele ne poet aver a la³ value; par quei pur le meschief il covient qele soit resceu.—*Pole*. Ele ne poet estre resceu forsqe par la defaute son baroun, et quant sur sa defaute homine est a rendre jugement; mes ore quant il fut⁴ garranti il fut hors de Court, et jammes par sa defaute apres ne poet Court agarder assise ne altre jugement rendre, issi qe ele par ley nest pas resceyvable; et quant al meschief, mesme le meschief⁵ purroit homme assigner si le baroun fut unquore en Court et ust plede autiel plee.—*Grene*. Si le baroun soeffre un altre qe nest pas tenant emprendre tenance et pledre en barre, a un altre jour, sil face defaute, sa femme qest nome vendra, et dirra qe ele est tenante, et noun pas lautre, et serra resceu⁶; auxi en ceo cas, del houre qil nad pas defaute en la femme, mes plus proprement fust defaute le pleintif, qar il purroit aver arestu le vouchier le baroun pur ceo qil ne fut pas tenant solonc ceo qil supposa par son vouchier, nous demandoms jugement.—*Nottone*. La femme avera assise en ceo cas apres la mort soun baroun, *non obstante* qe ele est⁷ nome, qar quant le baroun soul

There was yet another adjournment before Justices of Assise, and the plaintiff and vouchee appeared, Christina not being mentioned. Then came the adjournment of the parties into the Common Bench, where the plaintiff and the vouchee appeared, Christina again not being mentioned. And because after inspection of the records of both assises "*nulla comperta est variatio inter recorda predicta quominus recordum prioris assise, &c. . . . satis concordat cum recordo as-*

" *sise istius . . . consideratum est quod idem Johannes Riche- man nihil capiat per assisam istam,*" &c.

¹ 25, 184, le.

² Harl., general.

³ The words *a la* are from Harl. alone.

⁴ Harl., fait.

⁵ The words *mesme le meschief* are omitted from Harl.

⁶ The words *et serra resceu* are from Harl. alone.

⁷ T., fuit.

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A.D. 1342. when the husband alone takes upon himself the tenancy, and the plaintiff accepts him of his own accord, it is, as between them, as if she were not named; for in a *Præcipe* judgment will be given only against the person who is accepted as tenant; and consequently in this case she is not capable of being admitted.—*Moubray, ad idem*. The husband is warranted, and is in a position to have his value if any loss occur; and if the woman were admitted he would lose that advantage, which can not be.—*Seton*. If it can be proved that the tenant by his warranty has not failed of his record, then nothing is to be lost; consequently she is not capable of being admitted. Now it seems that he has not failed, because he has a record to the effect and substance of that which he alleged; for, although the wife of the husband was party to the record with him, that does not take from or add to the matter, for it equally bars both.—[*W.*] *Thorpe*. If I bring a writ against two persons by one *Præcipe*, and I recover against them, and if one of them afterwards bring Assise against me, and I allege my recovery against him, and he say: "Produce your record"—though it may be that the recovery proves the judgment to have been given against him and another, he shall be barred; so also here, &c., for the record sufficiently proves his contention to the effect alleged.—*R. Thorpe*. I think that, whether he has his record or not, she is capable of being admitted, so that this will not alter the law; for if she be capable of being admitted, the Court can not have regard to anything which the other says.—*SHARSHULLE to Pole*. You ground your case on that which is the reverse of the law in Assise, for the person who is warranted in Assise is not out of Court, because he will be called every day, and he will have his challenges to the assise, and it must be enquired also whether he was a disseisor; wherefore as soon as her husband made default she

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emprunt tenance et le pleintif l'accepte de gree, il A.D. 1342
 est entre eux auxi come ele ne fut par nome; qar
 en *Præcipe* jugement se ferra forsque vers celui qest
 accepte tenant; *neque hic, per consequens*, ele nest
 par resceivable.—*Moubray, ad idem.* Le baroun est
 garranti, et est daver sa value si perde chiete;¹ et si
 la femme fust resceu, cel avantage perdrait il, qe ne
 poet estre.—*Setone.* Si homme purra prover qe tenant
 par sa garrantie nad pas failli de soun recorde, donques
 rien nest a perdre; *per consequens* ele nest pas resceiv-
 able. Ore semble il qil nad pas failli, qar il ad recorde
 al effect et la substaunce qil alleggea; qar, tut fut
 la femme le baroun partie al recorde ovesque luy, ceo ne
 toude ne donne a la matere, qar owelement barre lun et
 lautre. —[*Thorpe.* Si jeo porte bref vers ij par un
Præcipe, et jeo recovere vers eux, si lun apres porte
 lassise vers moy et jeo allegge mon recoverir vers
 lui, et il dist: Eiez vostre recorde—tout soit il qe
 le recoverir prove le jugement taille devers lui et un
 altre, il serra barre; *sic hic, &c.*, qar le recorde prove
 assez sa entente al effecte qe ceo fut allegge.—]²
R.³ Thorpe. Jeo quide, le quel il ad soun recorde ou
 nient, ele est resceivable, issi qe ceo ne chaungera
 pas la ley; qar si ele soit resceivable, Court ne puit aver
 regarde a rien qe lautre dit.—*SCHAR. a Pole.* Vous
 foundes sur une chose qest revers de la ley en Assise, qar
 celui⁴ qest garranti en Assise nest pas hors de Court pur
 ceo qe chesqun jour il serra demande, et il avera ses⁵
 challenges al assise, et covient enquere auxi sil fut
 disseisour; par quei a plus tost qe soun baroun fist

¹ T., chiese; 25,184, chete.² The words between brackets are
from Harl. alone.³ R. is from Harl. alone.⁴ Harl., ele.⁵ Harl., son.

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A.D. 1342. came and prayed to be admitted; and as to the point that *Moubray* touched—that, if she were admitted, the husband would by her admission lose his warranty and his value, it is not so; for whenever the time for judgment came that would be saved to him in case a loss occurred; and even though she pleaded to the assise, or in respect of the assise, what was done before would stand in force for the advantage of her husband.—STONORE. Where is the person who vouches the record?—*Seton*. Sir, he appears by attorney.—STONORE. Then it is first to be seen whether the tenant by his warranty has failed of his record or not; and that we will see, for otherwise we talk in vain of the wife; and it seems that when the plaintiff divested himself, as was found by the record, and also as was pleaded in the first assise, in favour of whomsoever he divested himself—whether of the ancestor alone or of the ancestor and his wife—it will be a bar in the second assise as much as it was in the first.—Therefore HILLARY adjudged that the plaintiff should take nothing by his writ.—*Thorpe*. Inasmuch as the plaintiff has denied the record to which he was a party, and it is found that there is such a record, we pray that by reason of his false denial he be taken, just as much as if he had denied his deed; and also, if it had been found that there was not such a record, the tenant by his warranty would on account of his false voucher [of the record] have been adjudged to prison.—HILLARY. That is by Statute;¹ but now there is no law to support a judgment that he should be taken; wherefore we can not as to that point do anything further.—And note the opinion of the Court that the wife would have been admitted if the tenant by his warranty had failed of his record, because the husband, notwithstanding the warranty, has, on this writ, always a day in Court.

¹ 18 Edw. I. (Westm. 2) c. 25.

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defaute ele vint et pria; et a ceo qe *Moubray* toucha qe A.D. 1342.
 si ele fut resceu qe le baroun par sa resceite perdroit sa
 garrantie et sa value, il nest pas issi; qar a quel houre
 qe homme vendreit a jugement ceo luy serroit save
 en cas qe perdech erreit;¹ et mesqe ele pleda al assise, ou
 del assise, ceo qest fait devant esterreit en sa force
 en avantage de soun baroun.—*STON.* Ou est celuy
 qe vouche le recorde?—*Setone.* Sire, par attourne.—
STON. Donques primès fait a veer si le tenant par
 sa garrantie ad failli de soun reorde, ou noun; et
 ceo nous verroms, qar autrement nous parloms en vein de
 la femme²; et il semble qe quant le pleintif se demist
 [come trove est par recorde, et auxi come fuit plede en
 la primere assise,]³ [qe a qi qil se demist⁴] [al auncestre
 soulement ou al auncestre et sa femme, qe auxi bien
 come il fuit barre en la primere assise]⁵ il serra barre en
 la secunde. Par quei *HILL.* agarda qe le pleintif prist
 rien par soun bref.—*Thorpe.* Desicome le pleintif ad
 dedit le recorde a quei il fut partie, et trove est qe tiel
 recorde yad, pur soun faux dedire nous prioms qil
 soit pris, si bien com sil ust dedit soun fait; et auxi, sil
 ust este trove qil avoit⁶ pas tiel recorde, le tenant par sa
 garrantie pur le⁷ faux voucher ust est agarde a la
 prisone.—*HILLARY.* Ceo est par Statut; mes ore il
 ny ad nule ley qe meyntient le jugement qil fust pris;
 par quei nous ne poms quant a cel point rien faire plus
 avant.—*Et nota opinionem Curie* qe la femme ust este
 resceu si tenant par sa garrantie ust failli de soun
 record, qar⁸ le baron, *non obstante* la garrantie, en
 cestuy bref ad tous jours jour en Court.

¹ Harl., cheiret.² Harl., resceite.³ The words between brackets are omitted from 25,184.⁴ The words between brackets are omitted from 25,184 and Harl.⁵ The words between brackets are omitted from Harl.⁶ Harl., ad.⁷ T., soun.⁸ The words from qar to the end are from 25,184 alone.

No. 54.

A.D. 1342.

*Scire
facias.*

(54.) § Constance late wife of William Neville sued a *Scire facias* upon a fine against Katharine Gyse, by which fine W. and Constance rendered to P. for the term of his life, saving the reversion to them and the heirs of W.; and she made P. to be dead.—*Thorpe*. As to parcel, we tell you that Philip de Neville,¹ whose estate we have, heretofore brought a writ of Formedon in the Remainder against one T.,¹ who came and traversed the gift, and Philip said, you shall not be admitted to that, for a fine was levied between one P. de Neville and R. de N. of the same tenements, by which fine P. acknowledged the tenements to be the right of R. as those which he had of P.'s gift, to have and to hold to R. and the heirs of his body begotten, and, failing issue of his body, remainder by the same form to T.¹ de N.; and if T. should die, &c., the remainder to P.¹ who then demanded, and if he should die, &c., to one W.¹ by the same form; and he demanded judgment, since the gift by the fine was proved, whether the tenant should be admitted to the averment. And upon this it was adjudged that the demandant should recover. And the fine whereof she demands execution was mesne between the gift and the recovery; judgment, &c. And

¹ For the real names, &c., see p. 463, note 9.

No. 54.

(54.)¹ § Custaunce qe fut la femme William Neville A.D. 1342.
 suist *Scire facias* hors dune fyne vers Katerine Gyse,² *Scire*
 par quele fyne W. et Custaunce³ rendirent a P.⁴ a terme *facias.*
 de sa vie, salvant la reversion a eux et a les heirs W.; et
 fist P. mort.—*Thorpe*.⁵ Quant a parcele nous vous
 dioms qe Philippe de Neville porta autrefoitz bref de
 forme de doun en le remeyndre, qi estat nous avoms,
 vers un T., qe vynt et traversa le doun, et Philippe
 dit qe a ceo ne serrez resceu, qar fyne se leva entre
 un P. de Neville et R. de N. de mesmes les tenementz,
 par quele fyne P. conust les tenementz estre le dreit
 R. come ceo qe R. avoit de soun doun, a aver et tener a
 R. et a les heirs de soun corps engendres⁶ [et pur defaute
 dissue de soun corps]⁷ le remeyndre par mesme la
 fourme a T. de N.; et si T. deviait, &c., le remeyndre a
 P. qe demanda adonques, et sil deviait, &c., a un W. par
 mesme la fourme; et demanda⁸ jugement, desicome le
 doun par la fyne fut prove, si al averement serroit
 il resceu. Et sur ceo fut agarde qil recoverast. Et
 la fyne dount ele demande execucion fuit mene entre
 le doun et le recoverir; jugement, &c.⁹ Et quant

¹ From T., 25,184, and Harl., but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III. R. 402. It there appears that the *Scire facias* was brought by Constance, late wife of William de Neville, against Katharine de Gyse, in respect of two messuages and two virgates of land in Church Brampton, and the manor of Haldenby (Northants).

² MSS. of Y. B. Gynes, or Gines.

³ 25,184, G.

⁴ Philip de Neville, according to the record.

⁵ *Thorpe* is omitted from T. and 25,184.

⁶ engendres is omitted from T. and 25,184.

⁷ The words between brackets are omitted from 25,184.

⁸ 25,184, demandoms.

⁹ In the record this part of the plea is as follows:—"Dicit quo ad
 "manerium illud, exceptis uno
 "mesuagio et medietate unius vir-
 "gate terre, &c., quidam Johannes
 "filius Philippi de Neville cujus
 "statum ipsa Katerina modo habet
 "alias . . . tulit quoddam
 "breve de forma donationis versum
 "quendam Philippum de Neville
 "de Stoctone de manerio predicto,
 "exceptis &c., supponendo mane-
 "rium illud, exceptis &c., eidem
 "Johanni ut filio et heredi cujus-
 "dam Philippi fratris cujusdam
 "Radulphi de Neville post mortem

No. 54.

A.D. 1342. as to another parcel, we say that W. de Neville,¹ to whom the last remainder was limited by the fine, in the lifetime of P. de Neville,¹ to whom the tenements were limited before him by the same fine which he took for the cause of his action, brought a Formedon and recovered, whose estate those who were parties to that fine whereof execution is demanded afterwards had. And afterwards P. de N.,¹ whose estate we have, and who was named in the fine before W., brought a Formedon and recovered ;

¹ For the real names, &c., see p. 463, note 9, and subsequent notes.

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al autre parcelle nous dioms qe W. de Neville a qi A.D. 1342.
 le darrein remeyndre par la fyne fuit taille, vivant
 P. de Neville, a qi les tenementz furent tailles avant luy
 par mesme la fyne quele il prist pur cause de saccion,
 porta forme de doun et recoveri, qi estat ceux qe furent
 parties a ceste fyne [dount execucion est demande apres
 avoint. Et puis P. de N., qi estat nous avoms, qe fuit
 nome en la fyne]¹ avant W., porta forme de doun

" eorundem Radulfi et Philippi
 " remanere debere, et
 " prædictus Philippus de Neville
 " de Stoctone placitavit cum præ-
 " dicto Johanne et dixit quod
 " prædictus Philippus de Neville
 " non dedit prædicto Radulfo
 " manerium prædictum, exceptis,
 " &c. . . . et hoc prætendebat
 " verificare, &c. Ad quod præ-
 " dictus Johannes replicando dixit
 " quod idem Philippus de Neville
 " de Stoctone ad hujusmodi verifi-
 " cationem admitti non deberet
 " quia dixit quod tempore Henrici
 " Regis proavi domini Regis nunc
 " . . . levavit quidam finis inter
 " Radulfum de Neville querentem
 " et Philippum de Neville anteces-
 " sorem prædicti Philippi de Neville
 " de Stoctone cujus heres ipse est
 " impedientem, de septem libratibus
 " terre cum pertinentiis in Halde-
 " neby; quam quidem terram dixit
 " esse prædictum manerium tunc
 " petiit, exceptis &c., unde pla-
 " citum Warrantie Chartæ sum-
 " monitum fuit inter eos in eadem
 " Curia, scilicet quod prædictus
 " Philippus recognovit prædictam
 " terram cum pertinentiis esse jus
 " ipsius Radulfi, ut illam quam
 " idem Radulfus habuit de dono
 " prædicti Philippi de Neville,
 " habendam et tenendam eidem

" Radulfo et heredibus de corpore
 " ipsius Radulfi procreatis de ipso
 " Philippo et heredibus suis in
 " perpetuum, et si idem Radulfus
 " obiret sine &c., tunc prædicta
 " terra . . . integre remaneret
 " Philippo fratri ipsius Radulfi et
 " heredibus de corpore suo pro-
 " creatis, &c., et petiit judicium si
 " prædictus Philippus ad aliquam
 " verificationem patris contra finem
 " prædictum, qui fuit de recordo,
 " ad quem antecessor ipsius Phi-
 " lippi, cujus heres ipse est, fuit
 " pars, admitti deberet, &c. Ad
 " quod idem Philippus dixit quod
 " nunquam talis finis levavit inter
 " partes prædictas de tenementis
 " prædictis, &c." A transcript of
 the fine, however, having been sent
 to the justices *sub pede sigilli* "con-
 sideratum fuit quod prædictus Jo-
 hannes recuperaret inde seisinam
 suam versus prædictum Philip-
 pum de Stoctone, &c. Et dicit
 quod prædictus finis per quem
 prædicta Constantia modo petit
 executionem, &c., levavit medio
 tempore inter prædictum finem
 inter prædictos Radulfum et Phi-
 lippum de Neville levatum et re-
 cuperare prædictum, &c., unde
 petit judicium, &c."

¹ The words between brackets are
 in this place omitted from Harl.

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A.D. 1342. so that the same fine from which W. took his action proved that P. de N., whose estate we have, had an action before him, and so higher up; judgment. And as to the residue, Constance, at the time of the fine, had nothing except as wife of her husband.—*Grene.*

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et recoveri,¹ issi mesme la fyne de quele W. priest A.D. 134
saccion prova qe P. de N., qi estat nous avoms, avoit
accion devant luy, et issi de plus haut²; jugement. Et
quant al remenant, Custaunce al temps de la fyne
navoit rien forsque come femme soun baroun.³—*Grene.*

¹ In Harl. are here inserted the words qi estat ceux qe furent parties a cest fin, followed by the words between brackets above omitted, which are again followed by the words avant W. porta forme de doun et recovera.

² The words et issi de plus haut are omitted from T.

³ In the record this part of the plea is as follows:—"Et quo ad
" prædictum mesuagium dicit quod
" prædicta Constantia executionem
" habere non debet, quia dicit
" quod ipsa tempore levationis finis
" per quem ipsa petit executionem,
" &c., nihil habuit in mesuagio illo
" nisi ut uxor prædicti Willelmi, et
" hoc paratus est verificare, et petit
" iudicium, &c. Et quo ad præ-
" dictum medietatem virgatæ terræ
" dicit quod prædicta Constantia
" executionem habere non debet
" quia dicit quod quidam Jacobus
" de Neville alias . . . tulit
" quoddam breve de forma dona-
" tionis versus quendam Thomam
" de Neville tunc tenentem de
" manerio prædicto unde prædicta
" medietas est parcella . . .
" per quod quidem breve . . .
" idem Jacobus supposuit quendam
" Philippum de Neville dedisse
" manerium prædictum cuidam
" Radulfo de Neville et heredibus
" de corpore suo exeuntibus [with
" successive remainders to Philip,
" brother of Ralph in tail, to Hugu-
" lius, Joan, and Christiana, Philip's

sisters, in tail, to the said James,
their brother in tail, and to
the right heirs of the said Philip
de Neville]. Et super hoc præ-
" dictus Thomas tunc petit a præ-
" dicto Jacobo si quid habuit de
" dono prædicto, et idem Jacobus
" tunc allegavit quendam finem
" esse levatum in Curia Domini
" Henrici Regis proavi domini
" Regis nunc . . . inter Ra-
" dulfum de Neville querentem et
" Philippum de Neville deforcian-
" tem de septem libratibus redditus
" cum pertinentiis, quæ sunt idem
" manerium, &c., testificantem
" formam domi prædicti in forma
" prædicta, &c., ad quod prædictus
" Thomas dixit quod prædicta
" medietas virgatæ terræ non con-
" tinebatur in fine prædicto. [Issue
" having been joined and a verdict
" having been given that the moiety
" of a manor was included in the
" fine, judgment was given for James
" to recover] qui quidem Jacobus
" postea inde feoffavit eandem
" Constantiam et prædictum Wil-
" lelmum tunc virum ipsius Con-
" stantie tenendam eidem Wil-
" lelmo et Constantiæ et heredibus
" ipsius Willelmi in perpetuum,
" qui de statu illo fuerunt seisiiti
" tempore levationis finis prædictæ
" per quem, &c., inter quos et
" prædictum Philippum de Neville
" de Stoctone prædictus finis per
" quem, &c., levavit, versus quem
" quidem Philippum postea præ-

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A.D. 1842. As to your statement that Constance had nothing except as wife, you see plainly that they do not deny that the husband was seised, and so between the parties the fine was executed, and they do not show that any other person whose estate they have was seised; judgment whether he shall be admitted to this plea in avoidance of the fine. And as to the residue, he does not make himself an assignee, nor show how he is assignee, nor has he the record in hand; judgment. —And then he passed on, and said that Philip did not give as was supposed by the recoveries which were pleaded in bar.—*Blaykeston*. As to the first parcel, the gift whereof is traversed, ready, &c., the

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Quant a ceo qe vous dites qe Custaunce¹ navoit forsqe A.D. 1342.
come femme, vous veiez bien qil ne dedient pas qe le
baroun ne fuit seisi, et issi entre les² parties la fyne
execut,³ et il ne moustrent altre qi estat il ount estre
seisi; jugement si a ceo plee en voidaunce de la fyne
serra il,⁴ resceu. Et quant al remenant il ne se fist
pas assigne, ne moustre coment il est assigne, ne le
recorde nad⁵ en poigne; jugement.—Et puis passa
outre, et dit qe Philippe ne dona pas auxi com fut
suppose par les recoverers quex furent pledes en barre.⁶
—*Blaik.* Quant a la primere parcelle de quei le doun

" dictus Johannes . . . anno
" regni domini Regis nunc sexto
" recuperavit terram illam per
" breve de forma donationis, &c.
" Et petit judicium, ex quo status
" quem prædicta Constantia habuit
" in illa medietate virgatæ terræ,
" tempore quo prædictus finis inter
" Philippum de Neville de Stoc-
" tone et ipsam Constantiam et
" prædictum Willelmum quondam
" virum suum levavit, fuit ex feof-
" famenti prædicti Jacobi qui nihil
" habuisse debuit nisi post mortem
" prædictorum Radulfi, Philippi
" fratris Radulfi, Hugelins Jo-
" hannis et Christianæ, &c., prout
" in prædicto fine per quem præ-
" dictus Johannes cujus statum
" eadem Katerina habet recuper-
" avit supponitur, si eadem Con-
" stantia executionem habere de-
" beat, &c."

¹ 25,184, W.

² les is omitted from T.

³ 25,184, execution.

⁴ Harl., serrez, instead of serra il.

⁵ 25,184, nad pas.

⁶ The replication according to the record was "quod ipsa, per allega-
tionem aliquarum recuperatum

" per breve de forma donationis,
" ab executione sua prædicta ex-
" cludi non debet; dicit enim quod
" prædictus Philippus de Neville,
" quem prædicta Katerina respon-
" dendo supponit dedisse manerium
" prædictum, exceptis &c., prout
" prædictus Johannes filius Phi-
" lippi, quem eadem Katerina dicit
" recuperasse manerium illud, ex-
" ceptis &c., per quoddam breve
" de forma donationis, &c., eadem
" Constantia dicit quod prædictus
" Philippus de Neville non dedit
" manerium illud, exceptis &c., in
" forma prædicta sicut prædictus
" Johannes filius Philippi per breve
" suum supposuit. Et hoc parata
" est verificare, et petit judicium
" et executionem, &c. Et quo ad
" hoc quod prædicta Katerina sup-
" ponit prædictam Constantiam
" nihil habuisse in mesuagio præ-
" dicto tempore levationis finis per
" quem, &c., nisi ut uxor prædicti
" Willelmi, &c., eadem Constantia
" dicit quod prædicta Katerina est
" extranea fini prædicto, et ex
" quo ipsa non allegat aliquem
" alium tunc esse seisitum de me-
" suagio illo cujus statum ipsa Ka-

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A.D. 1342. gift. And as to the other parcel in respect of which he also traverses the gift, he shall not be admitted to the averment; for the person whose assignee Constance was at the time of the levying of this fine, whereof execution is demanded, supposed by his recovery the gift to be such as was supposed by the recovery which we plead in bar, so that such an averment against the gift would not be admitted in the mouth of a party, nor consequently in yours who are his assignee.—*Grena.* We have pleaded, not acknowledging that recovery, nor that we are assignee, so that it can not be held against us as not denied; for to that we could not have a traverse, because, even though we had traversed that recovery of earlier time, that which is the principal part of his answer would have remained without reply.—*Thorpe.* That which a party charges and is not denied must be held as not denied, &c. And as to the residue, in respect of which we say that Constance was not seised at the time when the fine was levied, where nothing could revert to her unless she had been seised, you have refused that averment, and therefore we

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est traverse, prest, &c., le doun. Et quant a lautre A.D. 1343. parcelle ou¹ il traverse le doun auxi, al averement ne serra il resceu; qar celui qi assigne Custaunce fut au temps de ceste fyne leve dount execucion est demande supposa le doun par soun recoverer tiel come fut suppose par le recoverer quel nous pledoms en barre, issi qe en bouche de partie tiel averement encountre del doun ne serroit pas resceu, nec *per consequens* en la vostre qestes soun assigne.²—*Grene*. Nous avoms plede, nient conissaunt cel recoverer, ne qe nous sumes assigne, issi qe ceo ne poet estre tenu nient dedit sur nous; qar a ceo nous ne³ poames aver travers, qar, mesqe nous ussoms traverse cel recoverir de plus haut, ceo qest le gros de son respons ust este nient respondu.—*Thorpe*. Ceo qe partie charge et nest pas dedit covient estre tenu nient dedit, &c. Et quant al remenant qe nous dioms qe C. ne fut pas seisi al temps de la fyne leve ou rien poet revertir a luy si ele nust este seisi, et cel averement avez⁴ refuse, par

"terina habeat, seu aliquo modo
"habere poterit, dicit quod ipsa ad
"supponendum alium statum in
"persona ipsius Constantie seu
"predicti Willelmi quam in fine
"illo supponitur admitti non debet,
"et petit inde iudicium et execu-
"tionem, &c."

¹ Harl., ount.

² The rejoinder as to the manor was, according to the roll, "quod
"predictus Philippus de Neville
"dedit manerium illud, exceptis,
"&c., in forma predicta," and on
this issue was joined. "Et quoad
"predictam medietatem virgatae
"terrae dicit quod predicta Con-
"stantia ad verificandum quod
"predictus Philippus de Neville
"non dedit terram illam predicto

"Radulfo in forma predicta ad-
"mitti non debet; dicit enim quod
"ex quo ipsa Katerina in respon-
"sione sua predicta supposuit
"predictum Jacobum recuperasse
"terram illum sicut predictum est
"per breve de forma donationis,
"et inde predictam Constantiam
"et predictum Willelmum quon-
"dam virum suum feoffasse, qui
"quidem Jacobus, dum tenens
"fuit, verificationem illam habuisse
"non debuit, unde dicit quod eadem
"Constantia quae statum suum
"inde habuit ex feoffamento ipsius
"Jacobi, simul &c., ad verifica-
"tionem illam admitti non debet.
"unde petit iudicium, &c."

³ ne is omitted from Harl.

⁴ Harl., apres.

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A.D. 1842. demand judgment. And where we are at issue we pray *Nisi prius*, because the party cannot be essoined.— Yet he did not have it, because on the first day, &c.

Avowry. (55.) § William Heron complained against Robert Bertram, in respect of two horses. Robert avowed, &c., for the reason that he is lord of the vill of Fenrother and of the wastes of the same vill, within which vill William has only ten acres of land to which common is appendant, and the residue which he has is land approved from the waste to which common is not, &c., and Robert as lord of the place where the taking, &c., approved and enclosed it in accordance with the Statute,¹ reserving for William sufficient common with ingress and egress. And William broke down the enclosure and put therein the beasts in respect of which he complains; and Robert took them for *damage feasant* in his several, as above.—*Richemund*. We tell you that W. Heron has two messuages and forty-eight acres of land in Fenrother to which common is appendant,

¹ 20 Hen. III. (Merton) c. 4.

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quei nous demandoms jugement. Et la ou nous sumes a A.D. 1342.
issue nous prioms *Nisi prius*, qar la partie ne poet pas
estre essone.—*Tamen non habuit, quia primo die, &c.*¹

(55.)² § William Heroun se pleint vers Robert Bertram⁴ de deux chivals. Robert avowa, &c., par la resoun qil est seigneur de la ville de Fenrother et de wastes de mesme la ville, deinz quel ville William nad que x. acres de terre⁵ a quei comune soit appendant,⁶ et le remenant qil ad est terre frusse⁷ de wast⁸ a quei comune nest pas, &c.,⁹ et R. com¹⁰ seigneur par statut del lieu ou la prise, &c., sapprua en lenclost,¹¹ salvant a W. sufficiaunt¹² comune ove¹³ entre et issue. Et W. abatist le clos et mist einz les bestes dount il se pleint;¹⁴ et R. les prist pur damage fesaunt en son seveal, *ut supra*.—*Rich.* Nous vous dioms qe W. Heroun ad deux mies et xlvij¹⁵ acres de terre, a quei comune este appendaunt, en Fenrother, et auxi un¹⁶

Avowerie.³
[Fitz.
Comen, 9].

¹ In 25,184 is added the sentence *contrarium supra, M. xij.º in Quare impedit*. According to the record, after the panel had been sent into the Common Bench, the jury was put in respite with a *Nisi prius*. It is stated in the *Postea* that Katharine did not appear on the day given. Afterwards one John, son of Philip de Neville, prayed to be admitted to defend his right as to the manor, because Katharine had only an estate for life, and he was the reversioner. He was admitted, and subsequently the pleadings were continued between him and the plaintiff. The conclusion is not shown, as the record ends with an adjournment.

² From T., 25,184, and Harl., but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., Rº. 321, d. It there appears that

the action was brought by William Heron against Robert Bertram, in respect of a taking of two mares.

³ 25,184, *Replegiari*.

⁴ T., de B; 25,184, Berthram.

⁵ The record *unum mesuagium et duodecim acras terras*, instead of x acres de terre.

⁶ The words *cum libero ingressu et egressu* are added in the record.

⁷ Harl., *fusahe*.

⁸ *terra de novo appruata*, in the record.

⁹ *Non pertinet* in the record.

¹⁰ Harl., *son*.

¹¹ 25,184, and Harl., *lencloa*.

¹² 25,184, *suffisaunt*.

¹³ Harl., *od*.

¹⁴ There is nothing corresponding to this sentence in the record.

¹⁵ The number is from the record the MSS. of Y.B. xxiiij.

¹⁶ MSS. of Y.B. iiij.

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A.D. 1342. and also one messuage and one carucate of land in Espley, to which common in the same waste is appendant, because the two villis intercommon, and all the tenants who hold of the manor of Bothal ought to common there and have always done so; and we tell you that the place in which he avows is parcel of the waste in the vill of Fenrother, and the approvement of which he speaks was an enclosure of more than a thousand acres of waste, without which there was not a sufficiency of pasture, nor ingress and egress, having regard to his common in Fenrother and in Espley; wherefore he came and found Robert making that enclosure, and so hindering him of his common; wherefore he broke it down and pastured his beasts; judgment, &c., and we pray our damages.—*Setone*. Whereas he says that the villis of Espley and Fenrother intercommon, we say that the villis do not intercommon; and as to his statement that he has forty-eight acres of land to which common is appendant in Fenrother, we tell you that he has only twelve acres, &c., and the residue is land newly approved to which common is not appendant; ready, &c.; and having regard to this he had sufficient, &c., as above; judgment and we pray the Return.—SHAR-

No. 55.

mies et une carue¹ de terre en Espley,² a quei comune A.D. 1342. est appendaunt en mesme le wast, pur ceo qe les deux villes sentrecomunent,³ et touz les tenantz qe tenent del maner de Bothal⁴ illoeqes deivent comuner et ount fait de tut temps; et vus dioms qe le lieu ou il avowe est parcele del wast en la ville de F., et lappruement dount il parle ceo fut enclosture⁵ de plus qe mil acres de wast, outre quei il ny avoit pas sufficiiaunce⁶ de pasture⁷, ne entre et issue, eiaunt regarde a sa comune en F. et en E.; par quei il vynt et trova R. fesaunt cele enclosture en destourbaunt luy de sa comune, par quei il labatist et puist ses bestes; jugement, et prioms nos damages.—*Setons.* La ou il dit qe les villes de E. et F. sentrecomunent,⁸ nous dioms qe les villes sentrecomunent pas; et [quant a ceo qil dit qil ad xlviij⁹ acres de terre a quei comune est appendaunt en F., la]¹⁰ dioms nous qil nad forsque xij. acres,¹¹ &c., et le remenant est nouvelle terre approwe a quei comune¹² nest pas appendaunt; prest, &c.; et eiaunt regarde a ceo,¹³ il avoit sufficiiauntie,¹⁴ *ut supra*; jugement et prioms Retourn.—

¹ MSS. of Y.B. ij. carues instead of une carue.

² The record, Espele.

³ All the subsequent words of this plea are represented in the record by the words following:—"Et dicit quod prædictus Robertus inclusit prædictum locum, impediendo ipsum de comunia sua ad tementa sua in prædictis villis, prædictus Willelmus clausum illud recenter prostravit, et comuniam suam in prædicto loco cum prædictis jumentis depastus fuit, et petit iudicium si prædictus Robertus captionem illam justam in prædicto loco ratione prædicta advocare possit, &c."

⁴ The manor of Bothal is not mentioned in the record.

⁵ Harl., un closture.

⁶ 25,184, sufficiiaunce; Harl., sufficiiaunte.

⁷ T., comune.

⁸ T., entrecomunent.

⁹ MSS. of Y.B. xxiiij.

¹⁰ The words between brackets are not represented in the record. For the quantity, see p. 478, note 15.

¹¹ The record, unum mesuagium et duodecim acras terræ.

¹² In Harl. are here inserted the words est appendant en F., la dioms nous qil nad forsque xij. acres, et le remenant est novel terre approwe a quei comune.

¹³ 25,184, cele; Harl., cele.

¹⁴ 25,184, sufficiiaunce; Harl., sufficiiauntie.

Nos. 56, 57.

A.D. 1342. SHULLE. Say what you please, on either side, about the quantity of the land to which common is appendant, and about the intercommoning of the vills, by way of protestation; but the issue in this plea must be general, on the sufficiency of the common; and what you say now say in evidence.--*Seton*. Protesting as above, we say that we enclosed and approved as above, saving to him sufficient common, and ingress and egress to and from the land to which he has common appendant; ready, &c.—And the other side said the contrary.

Fine. (56.) § A husband and his wife acknowledged the tenements to be the right of one J., and for that acknowledgment J. granted and rendered to the husband and his wife for the life of the wife, and that after the death of the wife a certain quantity of the same land should remain to the husband alone, if he survived his wife, for his life, &c., and that the residue after the death of the wife should remain to another.

Annuity. (57.) § Master Henry de Iddesworthe brought a writ

Nos. 56, 57.

SOHAR. Dites ceo qe vous voillez, dune part et daltre, de la quantite de terre a quei comune est appendaunt, et del entrecomuner des villes, pur protestacion; mes lissue en ceo plee covient estre general¹, sur la sufficiantie² de la comune; et ceo qe vous parlez ore dites le en evidence.³—*Setone. Protestando ut supra*, nous encloames⁴ et approwames⁵ *ut supra*, sufficiante⁶ comune, entre et issue salves a luy a la terre a quei il ad comune appendaunt; prest, &c.—*Et alii e contra*.⁷ A.D. 1342.

(56.)⁸ § Le baroun et sa⁹ femme conissoient¹⁰ les tenements¹¹ estre le droit un J., et pur cele reconisance J. graunta et rendi al baroun et sa femme a la vie la femme, et apres le decees la femme qe certain quantite de mesme la terre remeigne al baroun soul¹², sil survive sa femme, pur sa vie, &c., et le remenant apres le decees la femme remeyndreit a un altre. *Finis.*
[Fitz. Fynes, 8].

(57.)¹³ § Maistre¹⁴ Henre de Hildesworthe¹⁵ porta bref Annuite.
[Fitz. Annuite, 22].

¹ 25,184, several.

² 25,184 suffisaunce; Harl., sufficiantie.

³ 25,184, devidence; Harl., leideins, instead of en evidence.

⁴ T., enclosames.

⁵ T., approwames.

⁶ 25,184 and Harl., suffisaunte.

⁷ The replication concludes in the record as follows:—"Et sic dicit quod ipse inclusit prædictum locum, salvo [sic] eidem Willelmo sufficiente communia pertinente ad liberum tenementum suum in prædicta villa cum libero ingressu et egressu, &c." Issue was then joined, and the *Venire* awarded, but the result does not appear.

⁸ From T., 25,184 and Harl.

⁹ Harl., la.

¹⁰ 25,184, conisont; Harl., conisont.

¹¹ T. terres.

¹² soul is from Harl. alone.

¹³ From T., 25,184, and Harl., but corrected by the record *Placita de Banco*, Mich. 16 Edw. III., R^o. 648, d. It there appears that the action was brought by Master Henry de Iddesworthe against the Abbot of Lesnes, in respect of an annuity of 40s. The record was originally entered on R^o. 361, d., but there vacated "quia melius alibi, R^o. Dcxlviij." There, however, the plea contains a mention of the acquittances as in Pulteney's original pleading, though this matter was omitted from the plea as accepted. As to this and like variations, see Y.B. 16 Edw. III. (First Part) Introd., pp. xvij-xx.

¹⁴ 25,184, Mestre; Harl., Meester.

¹⁵ 25,184, Hidesworth.

No. 57.

A.D. 1342. of Annuity against the Abbot of Lesnes, &c.—*Pulteney*.

As to certain terms we say to you, see here acquittances, and as to the later time he cannot demand anything, because the deed by which he would charge us is upon condition, to wit, that if he should aid us with his counsel in the Courts in which he should be found, either personally or by another in his place; and we tell you that at such a day and place where he was present, we were summoned, &c., and we demanded aid and counsel of him and he refused, so the annuity was extinguished; judgment whether in respect of the subsequent time you can have an action.—*Pole*. This answer is contradictory, for inasmuch as you produce an acquittance you admit the annuity to be due, and by the breach of the condition you suppose the annuity to be extinguished.—*Pulteney*. If we did not now mention the acquittances, while by the rest of our answer we may be able now to foreclose him from his action, hereafter if he were to bring a writ of Debt for the arrears, we should not be admitted to use those deeds; and besides, by this writ he seeks to recover the arrears as well as the annuity.—*SHARDELOWE*. By a writ of Annuity he will never recover the arrears if he do not recover the annuity, which is the principal matter; wherefore if you can oust him from recovering the annuity that is sufficient for this action; and you may use the acquittances on the writ of Debt, and that is reasonable, because they cannot now be tried; for if the annuity be extinguished the arrears sound only in debt, and, if the party were put to answer to the acquittances, it might be found that they are not his deeds; and it would, perhaps, be found on the other hand that the condition was broken, so that the Court would not know what judgment to give; wherefore these matters

No. 57.

dannuite vers labbe de Lesenes,¹ &c.—*Pult.* Nous vous A.D. 1342.
dioms qe quant a certains termes veiez cy acquitances,
et de temps puis il ne poet rien demander, qar le fait
par quel il nous voet charger est condicionel, saver sil
nous euidast de soun conseil es places ou il serroit trove,²
ou par luy mesme ou altre en son lieu; et vous dioms
qe³ a tiel jour et lieu ou il estoit present, nous⁴ fumes⁵
somons, &c., et nous demandames eide et conseil de
luy, et il refusa, issint lannuite esteinte; jugement si de
temps puis puissez accion aver.—*Pole.* Ceo respons est
contrariaunt, qar par tant qe vous mettez avant acquit-
ance vous conissez lannuite destre due, et par la condi-
cion enfreint vous supposez lannuite esteinte.—*Pult.*
Si nous ne parllassoms ore de les acquitances et par le
remenant de nostre respons nous luy purroms a ore
forclore de saccion, altrefoitiz sil portast bref de Dette de
les arrerages, nous serroms pas resceu duser les faitz; et
ovesqe ceo, par ceo bref il est si avant de recoverer les
arrerages come lannuite.—*SCHARD.* Jammes [ne reco-
vera par bref dannuite arrerages]⁶ sil ne recovere
lannuite qest le principal; par quei si vous le puissez
ouster del recoverir del annuite ceo suffit a ceste accion;
et al bref de Dette usez les acquitances, et cest resoun,
qar eles⁷ ne pount a ore estre tries; qar, si lannuite soit
esteinte les arrerages sounent forsqe en dette, et, si
partie fut mys de respondre a les acquitances, trove
serra qe nient ses faits; et trove serra daltre part par
cas qe le condicion serra enfreinte, issi qe la Court ne
savera quel jugement rendre; par quei ils ne pount estre

¹ T., Lesne; 16,560, Lescent; Harl., Lesen.

² "in Curia de Arcubus et alibi
" ubiunque ipsum presentem esse
" contigerit," according to Ro.
361, d.

³ The words vous dioms qe are
omitted from T.

⁴ T., et nous.

⁵ Harl., fuismes.

⁶ The words between brackets are
omitted from Harl.

⁷ T., ils.

No. 58.

A.D. 1342. cannot be joined in one answer.—*Grene*. If on a writ of Annuity acquittances be produced and denied, and then, pending the inquest, the plaintiff do something by which the annuity is extinguished, and this be alleged, at another day they can be at issue on this, and so both one traverse and the other will be pending.—SHARDELOWE. That would be by reason of a matter *ex post facto*, but there was never seen such a plea as to the extinction of the annuity, and at the same time a plea as to the arrears.—*Grene*. Then we say that we do not admit that there are any arrears as he supposes, and we demand judgment, since the annuity is extinguished, whether he ought to be answered as to this writ.—To this plea the plaintiff was put to answer.

Statute
Merchant:
Ex Gravi
Querela :
Appor-
tionment.

(58.) § Roger Sifrewaste¹ (against whom heretofore the inquest passed on a writ *Ex gravi querela* upon a Statute Merchant, as appears above, where execution was awarded against him, that is to say, whereas the recognisance was for 2,000*l*. the plaintiff had on his own

¹ See Y.B., Easter, 15 Edw. III., No. 15.

No. 58.

joint¹ en un respons.—*Grene*. Si en bref dannuite A.D. 1342.
acquittances soient mys avant et deditz, et puis, pendaunt
lenqueste, le pleintif fait chose par quei lannuite soit²
esteinte, et ceo soit allegge, a autre jour sur ceo il pount
estre a issue, et si serra pendaunt³ lun travers et lautre.
—SCHARD. Cest⁴ par chose *ex post facto*, mes unqes ne
fuit vieu tiel plee desteingre lannuite, et a mesme le
temps pleder⁵ a les arrerages.—*Grene*. Donques dioms
nous qe nous ne conissoms pas qe arrerages sount arrere
com il suppose, et demandoms jugement, del houre qe
lannuite est esteinte, si a ceo bref deive estre respondu,⁶
[a quei le pleintif fust mys a respondre, &c.].⁷

(58.)⁸ § Roger Sifrewaste¹¹ countre qi altrefoitz en- Statut Mar-
queste passa sur un bref *Ex gravi querela* hors dun chand⁹:
Statut Marchaunt, *ut patet supra*, ou execucion fut *Ex Gravi*
agarde¹² sur luy, saver la ou la reconisance fut de ij. m. *Querela*.¹⁰

¹ joint is omitted from Harl.

² T., est.

³ Harl., prendra, instead of serra pendaunt.

⁴ Harl., ceo.

⁵ 25,184 and Harl., pledra.

⁶ The following was, according to the record, the plea which was accepted:—"quod.prædictus Henricus nihil juris clamare potest de prædicto annuo redditu nec de areragiis ejusdem, dicit enim quod quidam Johannes quondam Abbas loci prædicti, prædecessor, &c., et ejusdem loci Conventus accusati fuerunt in visitatione Episcopi Roffensis de eo quod ipsi celebrarunt missam in manerio suo de la Tungge sine licentia dicti Episcopi, unde ipsi citati fuerunt essendi coram eodem Episcopo inde respondendi apud Roffam . . . per quod ipsi requisiverunt prædictum Henri-

" cum . . . ut ipse Henricus
" prædictos Abbatem et Conventum
" in negotio prædicto consularet
" et juvaret, vel aliquem alium
" idoneum eis nominaret . . .
" prædictus Henricus ipsos Abbatem et Conventum in negotiis
" prædictis consulere, juvare, vel
" alium idoneum, &c., eis nominare,
" &c., omnino recusavit, unde petit
" iudicium si prædictus Henricus
" aliquid de prædicto annuo [reditu] versus eum exigere possit."
The record ends with an adjournment.

⁷ The words between brackets are from Harl. alone.

⁸ From T., 25,184 and Harl.

⁹ The words Statut Marchand are from T. alone.

¹⁰ The words *Ex Gravi Querela* are from Harl. alone.

¹¹ T., Cyfrewashe.

¹² Harl., ajuge.

No. 59.

A.D. 1842. prayer execution by apportionment in divers counties, in respect of which he had a writ to the Sheriffs of London for 20*l.*), now came and said that he was ready to make satisfaction for the 20*l.*, and prayed a writ to the Sheriffs of London to deliver him.—*Grene*. He shall not have it, for the Statute purports that he shall remain in prison until all be paid.¹—*KELSHULLE*. Your apportionment which you have prayed gives him the advantage, for your writ which you had directed to the Sheriffs of London purports that they are to deliver to you lands and chattels, and to take his body until satisfaction be made to you of 20*l.* Now suppose that he immediately delivered to you the 20*l.*, what warrant would a Sheriff have for detaining him any longer? (as meaning to say none); but if he were permitted to go in that county, another Sheriff could take him, &c.—*Grene*. Then it would be in vain to let him go. And suppose that a Sheriff of London returned that he had nothing, &c., still notwithstanding that I had chosen a certain portion there, I should yet have execution for that portion in another county.—*KELSHULLE*. Was he taken before the apportionment or since?—*Grene*. Since.—*KELSHULLE*. So much the better for him, for if he had been taken before the apportionment, then the Sheriff would have had a warrant for keeping him until all had been paid, but now not so.—*Grene*. Where is the money?—And it was not there ready.—*STONORE*. Now you have made a nice jangle about nothing.

See the beginning in Trinity term next preceding, where a cognisance was made by a bailiff. (59.) § *Blaykeston*. We tell you that John Grove, on whom the cognisance is made, held of John Stoknethe, who was seised of the same seignory as of fee simple, and granted these services to Gerard de B., by reason of which grant John Grove attorned; from Gerard the services descended to W. as son, and he granted the same ser-

¹ 11 Edw. I. (Acton Burnel); 18 Edw. I., Stat. 3.

No. 59.

livres, le pleintif avoit a sa priere en divers countes par apporcionement execucion, dont il avoit bref a Vicountes de Londres [de xx. livres; ore il vint et dit qil fut prest de faire gree de les xx. livres et pria bref a Vicountes de Loundres]¹ pur luy deliverer.—*Grene.* Ceo navera il pas, qar Statut voet qil demurge en prisone tanqe tut soit paie.—*KELS.* Vostre apporcionement qe vous avez prie luy doune lavantage, qar vostre bref qe vous avez direct a Vicountes de Loundres voet qil vous liverent terres et chateux, et qil preignent son corps tanqe vostre gree soit fait de xx. livres; dount jeo pose qil liverast tantost a vous les xx. livres, quele garrantie averoit le Vicounte de luy detener outre? *quasi diceret* nul; mes sil soit suffert daler illoeqes un altre Vicounte luy prendra, &c.—*Grene.* Donques serroit en vein del lesser aler. Et je pose qe le Vicounte de Loundres retourna qil navoit rien, &c., unquore, nient coudre esteant qe jeo avoi² eslu une certain porcion illoeqes, javeray unquore execucion de cele porcion en un altre counte.—*KELS.* Le³ quel fuit il pris avant lapporcionement ou puis?—*Grene.* Puis.—*KELS.* De taunt⁴ le mieutz⁵ pur luy, qar sil ust este pris devant lapporcionement donques ust le Vicounte garrant de luy aver tenu tanqe tut ust este paie, mes ore nient.—*Grene.* Ou sont les deners?—Et ils ne furent pas la prest.—*STON.* Ore avez bien jangle⁷ entour nient.

(59.)⁸ § *Blaik.*⁹ Nous vous dioms qe Johan Grove,¹⁰ sur qi la conisaunce est fait, tint de Johan Stoknethe, le quel fut seisi de mesme la seignurie come de fee simple, et graunta ceux services a Gerard de B., par quel graunt il attourna, de qi descenderent a W. come a fitz, le quel

A.D. 1342.
Aporcione-
ment.¹
[Fitz.
*Execu-
cion*, 49].

*Princi-
pium
Trinitatis
proximo
precedente,
on une
conisaunce
fuyt fait*

¹ The word Aporcionement is from 25,184 alone.

² The words between brackets are omitted from 25,184.

³ 25,184, avoit.

⁴ le is omitted from T.

⁵ Harl., tenant.

⁶ T., meutz; Harl., melts.

⁷ 25,184, gangle.

⁸ From T., 25,184, and Harl.

⁹ 25,184, *Blaixt*.

¹⁰ MSS. of Y.B., *Grene*.

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A.D. 1342. vices to Eleanor, in whose name the cognisance is made, to hold to her and her heirs, and by reason of that grant John Grove attorned, and thus she had a fee in the services as is now supposed by the cognisance ; ready, &c.—*Gaynesford*. He shall not be admitted to that ; for he abode judgment on another point, viz., that our answer extended only to rent seck, and his avowry was made for rent service, so that we had not answered, and on that he demanded judgment. But *Gaynesford* passed on, and demanded judgment on the ground that *Blaykeston* does not deny that this rent for which the cognisance is made is the same rent of which Katherine was endowed, and which by law cannot remain in her or in any other after her death, except in the heir of her husband, and he does not give any footing or ground as to John S. being seised in fee simple of the rent ; for even if Katherine, who held in dower, granted the rent to John S. in fee simple, still he would only have her estate, because rent is different from land ; wherefore we demand judgment whether this cognisance, &c.—*Blaykeston*. We do not admit the rent which was assigned in dower as above to be the same as that for which we make cognisance ; but we have shown that Eleanor, on whose behalf we have made cognisance, purchased to herself in fee simple the rent and your services, and you have yourself attorned on that purchase ; wherefore you cannot, contrary to your attornment in fee, say that her estate was different ; and we demand judgment whether the law puts us to answer anything which you allege higher up.—*Thorpe*. One does not attorn in fee ; but I say that, for anything which Katherine, tenant in dower, or any one who had her estate could do, they could not estrange us from the heir of Katherine's husband ; and although you say you do not admit that it is the same

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graunta mesmes les services a Elianore en qi noun la conisaunce est fait, a luy et ses heirs, par quel graunt il attourna, et issint avoit ele fee en les services come est ore suppose par la conisaunce; prest, &c.—*Gayn*. A ceo ne serra il resceu; qar il est demure en jugement sur altre point pur ceo qe nostre respons sestendit a rente seke, et savowere fut fait pur rente service, issi qe nous navons pas respondu, et sur ceo demanda jugement. Mes *Gayn*. passa outre, et demanda jugement del heure qil ne dedit pas qe ceste rente pur quele la conisaunce est fait nest mesme² la rente dount Katherine fut dowe, quele par ley ne poet demurer en luy ne en nul altre apres son decees, forsque en leir son baroun, et il ne doune pas pee ne foundement coment Johan S. fut seisi de fee simple de la rente; qar tut ust Katherine, qe tint en dower, graunte a luy en fee simple la rente, unquore naveroit ele forsque son estat soulement, qar il est altre de rente qe de terre; par quei nous demandons jugement si ceste conisaunce, &c.—*Blaik*. Nous ne conisoms pas qe ceste mesme la rente qe fut assigne en dower *ut supra*, pur³ quele nous conisoms; mes nous avoms moustre qe Elianore, pur qi nous avoms conu, purchacea a lui en fee simple la rente et vos services, et vous mesmes par le purchaz attournastes; par quei, contre vostre attournement de fee, vous ne poez dire qe son estat soit autre; et demandons jugement si a rien qe vous alleggez de plus haut ley nous mette a respondre.—*Thorpe*. Homme nattourne pas de fee; mes jeo die, pur rien⁴ qe Katherine tenante en dower ou asqun qe avoit son estat pout faire, il ne poeint estraunger nous del heir le baroun K.; et coment qe vous dites qe vous

A.D. 1342.

par un
bailliff.¹

¹ The marginal note is from T., alone. It is abridged in the other two MSS. The report appears to be a continuation of T., 16 Edw. III., No. 26. (Thomas le Parker v. John de Pyreton and another.)

² Harl., mye.

³ pur is from Harl. alone.

⁴ The words pur rien are omitted from 25, 184.

No. 60.

A.D. 1842. rent, we have surmised to you that it is the same rent, and you have not denied it; and thereof we demand judgment as above.—*Blaykeston*. And we demand judgment as above.—*SHARDELOWE*. Can you be party to this, in discharge, &c., without Eleanor as whose bailiff you have made cognisance?—*Thorpe*. He who is a stranger can plead "Out of the fee of the avowant," or something equivalent thereto; and that which we say is equivalent, and proves the tenements to be out of his fee; wherefore *a fortiori* we who are privy and are joined to our tenant shall have it.—*Seton*. My very tenant can by doing homage and other services charge himself to a person other than myself, so that by a plea in law he shall not discharge himself, but he shall be aided by the general averment of *hors de son fee*; so it is in this case; by your own attornment in fee your mouth is estopped from saying that the person to whom you attorned simply has a lower estate; but by the general averment *hors de son fee*, perhaps, you will be aided.—*Blaykeston*. We demand judgment whether contrary to your own attornment made simply, which you have not denied, I have any need to plead higher up; and I pray the return.—*Thorpe*. And we demand judgment, since you do not deny that it is the same rent, &c., whether, on the ground of any attornment, even though it were in fee, you can avow the distress for those services thus extinguished.

Voucher.

(60.) § Henry Gylmyn, who was vouched simply, had warranted simply in a *Præcipe quod reddat* to one J. against whom the writ was brought, and Henry revouched J. to whom he had warranted with the

No. 60.

ne conissez pas qe ceste mesme la rente, nous lavoms A.D. 1342.
 surmis a vous qe cest mesme la rente,¹ et vous lavez pas
 dedit; dount nous demandoms jugement *ut supra*.—
Blaik. Et nous jugement *ut supra*.—SCHARD. Poez
 vous estre partie a ceo en descharge, &c., saunz E. come qi
 baillif vous avez conu?—*Thorpe*. Celuy qest estraunge
 poet pleder hors del fee lavowaunt ou chose qe taunt
 vaut; et ceo qe nous dioms countrevaut et prove les
 tenementz hors de son fee; par quei de plus fort nous
 qe sumes prive qe sumes² joint a³ nostre tenant lave-
 roma.—*Setone*. Moun verroi tenant se poet par fesaunce
 damage⁴ et altres services se⁵ charger a altre qe a moy,
 issi qe par plee en ley il ne se deschargera pas, mes par
 general averement hors de son fee il serra eide; auxi est
 en ceo cas; par vostre attournement demene de fee
 vostre bouche est estope a dire qe celui a qi vous estes
 attourne simplement qil ad plus bas estat; mes par
 averement general hors de soun fee par cas vous serrez
 eide.—*Blaik*. Nous demandoms jugement si countre
 vostre attournement demene fet⁶ simplement,⁷ quel vous
 navez pas dedit, si a pleder plus haut ay jeo mester; et
 prie retourn.—*Thorpe*. Et nous jugement, del heure qe
 vous ne dedites pas qe ceo nest mesme la rente, &c.,⁸ si
 par nul attournement, tut fuit ceo de fee, si pur ceux
 services issi esteintz puissez la destresse avower.

(60.)⁹ § Henre Gylmyn, qe simplement fut vouche, Voucher.
 avoit simplement garranti en *Præcipe quod reddat* a un [Fitz.
 J. vers qi le bref fut porte,¹⁰ et H. revoucha J. a qi il 87.]

¹ The words qe cest mesme la rente are omitted from T.

² The words prive qe sumes are omitted from 25,184.

³ Harl., ove.

⁴ 25,184, damage; Harl., sanz homage.

⁵ T, ceo, instead of services se.

⁶ fet is from 25,184 alone.

⁷ Harl., de fee simple, instead of demene fet simplement.

⁸ 25,184, &c., *ut supra*.

⁹ From T., 25,184, and Harl.

¹⁰ Harl. partie.

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A.D. 1342. addition of a surname.—*Richemund*. You can not vouch this J. for he is the same person to whom you have warranted.—*Derworthy*. Henry took an estate by feoffment from J. to him and his heirs simply, and then conveyed back to J. and the heirs of his body, &c., in respect of which estate he has warranted J., and now he vouches J. for the first estate which he took from J.—*Richemund*. You shall not be admitted to that, for you have warranted to him simply, so that it does not lie in your mouth to say that he is warranted in respect of a different estate; and consequently every warranty higher up between you is extinct; judgment.—*Derworthy*. You can not plead anything to the warranty, for that lies in the mouth of the vouchee. When he comes perhaps he will warrant *gratis*; and if he were here and were willing to warrant, you would not have a counterplea.—*Pole*. When one vouches according to the common course the seisin of the vouchee is alone sufficient cause to maintain the voucher; but when one is out of the common course of vouching, so that it is necessary to show a cause, it is sufficient to destroy the cause, as, for instance, if husband and wife vouch themselves, and they show their cause, as the law requires, to be because the ancestor of the wife enfeoffed them, &c., it is a good counterplea for the demandant, who would be delayed by the voucher, to say that they had nothing by feoffment from the wife's ancestor; and so that plea is in a manner to oust them from the warranty, for the same plea would be sufficient for the vouchee when he came. So also I say in this case, although it be the fact that the vouchee would escape by such counterplea, it does not therefore follow that the demandant shall not have it when he can take it upon the deliverance of his adversary, for otherwise it would follow in this present case that each one would revouch the other *usque infinitum*.—*Moubray*. When tenant for term of life, or

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avoit garranti par adicion¹ de surnoun.—*Rich.*² Voucher A.D. 1342.
 ne poetz celuy J., qar il est mesme la persone a qi³ vous
 avetz garranti.—*Der.* H. prist estat par feffement de J.
 a luy et ses heirs simplement, et puis lessa arrere a J.
 et a les heirs de soun corps, &c.,⁴ de quele estat il ly ad
 garranti, et ore il le vouche del primer estat quele il
 prist de luy.—*Rich.* A ceo ne serrez resceu, qar vous
 avez garranti a luy simplement, issint qe en vostre
 bouche ne gist pas a dire qil est garranti daltre estat ; et
per consequens chesqun garrantie de plus haut entre
 vous esteint ; jugement.—*Der.* Vous ne poez rien
 pleder a la garrantie, qar ceo gist en la bouche le
 vouche. Quant il vendra par cas il voet garrantir de
 gree ; et sil fuit icy,⁵ et voleit garrantir, vous naverez
 pas countreple.—*Pole.* Quant homme est en comune
 cours de voucher soul seisine del vouche suffit pur cause
 de maintenir le voucher ; mes quant homme est hors de
 comune cours de voucher, issi qil covient moustrer
 cause, suffist a destruer⁶ la cause, come si le baroun et
 sa femme vouchent eux mesmes, et ils moustrent lour
 cause, come ley voet, pur ceo qe launcestre la femme les
 feffa, &c., il est bon countreplee pur le demandant, qe
 serra delaye par le voucher, a dire qils navoient riens del
 feffement launcestre la femme ; et si est cel plee en
 manere de les ouster de la garrantie, qar mesme le plee
 serroit sufficiaunt pur le vouche quant il vendra. Auxi
 die jeo en ceo cas, tut soit il issi qe le vouche estourteroit
 par tiel countreplee,⁷ de ceo nensuit pas qe le demandant
 nel avera quant il le poet prendre de la livre soun
 adversarie, qar autrement ensuereit en ceo cas icy qe
 chesqun revoucheroit altre *usque infinitum*.—*Moubray.*

¹ T., adieccion.² 25,184, Som.³ 25,184, vers qi le bref fuit porte
 qar, instead of qar il est mesme la
 persone a qi.⁴ Harl., a terme de sa vie instead
 of et a les heirs de soun corps, &c.⁵ T., issi.⁶ Harl., destreure.⁷ Harl., comune plee.

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A.D. 1342. in tail, vouches the person to whom the reversion belongs simply, and he warrants simply, the tenant is warranted only for his estate; for if a tenant in tail who is thus warranted recover to the value, his issue shall have a Formedon and the reversioner also, for otherwise the consequence would be that a tenant for term of life would by a simple voucher forfeit the reversioner's estate, and this is not the fact; therefore there is no proof, although the tenant vouch simply and the vouchee warrant simply, that the warranty was of the fee simple, but it stands only for such fact as he has alleged in maintenance of his voucher.—*Pulteney*. Although the person who vouches has only a term for life, if he vouch simply and be warranted simply, if loss occur, he will recover in fee simple.—*Grene*. It is not so, for he is warranted only in respect for the estate in respect of which he vouched, unless he bound the vouchee in some other way.—*HILLARY*. The Court can not understand that he is warranted otherwise than in fee simple, and if so, he can not have a revoucher, for that would be to recover to the value twice over on one and the same demand of the fee, which would be inconvenient.—*SHARSHULLE*. If I enfeoff you in fee with warranty when I have my warranty against another, and then you enfeoff me in fee with warranty, if I be impleaded I shall deraign warranty from no one but you; and if you could not vouch and have warranty from me it would be hard; and even if I were to warrant there would be no harm, for then I should be able to have warranty over.—*Grene*. Nay, Sir, I know well that, in the case you put, they would not so have warranty each from the other, where the feoffments are in fee, for thence it would follow that each could vouch and revouch the other *usque infinitum*; and this was lately adjudged in an Assise of Mort d'Ancestor in the King's Bench upon

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Quant tenant a terme de vie, ou en taille, vouché celui a A.D. 1342. qi la reversion appent simplement, et il garrante simplement, il nest pas garranti forsque de son estat; qar tenant en taille qest issi garranti et il recovre a la value, son issue avera Forme de doun et celuyen *reverti* auxi, qar autrement ensuereit qe tenant a terme de vie par simple voucher forferreit soun estat; *consequens falsum*; par quei ceo ne prove pas, coment qe le tenant vouché simplement et le vouché¹ garrante simplement, qe la garrantie fut de fee simple, *sed tantum*² *hoo stat*³ tiel⁴ fait come il ad allegge en meyntenaunce de soun voucher.—*Pult.* Mesqe celui qe vouché nad qe terme de vie, sil vouché simplement et simplement soit garranti, si perde chete,⁵ il recovers fee simple.—*Grene.* *Non est ita*, qar il nest garranti forsque del estat dount il voucha sil nel ust lie par altre voie.—*HILL.* Court ne poet entendre qil est garranti fors qe de fee simple, et *si sic*, il ne poet aver revoucher, qar ceo serroit de recoverer deux foitz a la value dune mesme demande de fee, *quod esset inconveniens*.—*SCH.* Si jeo vous feffe de fee ove garrantie la ou jay ma garrantie vers altre, et puis vous moi feffez de fee ove⁶ garrantie, si jeo soi emplede jeo ne⁷ derenera garrantie de nul autre forsque de vous; et si vous ne puissiez voucher et aver garrantie de moy, il serroit fort; et mesqe jeo garrauntisse⁸ serroit nul mal, qar donques purroi jeo aver garrantie outre.—*Grene.* Nay⁹ Sire, jeo sai bien en vostre cas qils naverount pas issi garrantie chesqun daltre, la ou les feffementz sont de fee, qar de ceo ensuereit qe chesqun vouchereit et revouchereit altre *usque infinitum*; et ceo fuit ajuge tarde en une Assise de Mortdaun-

¹ T., tenant.² T., cum.³ T., *stat*.⁴ T., il.⁵ Harl., cheitte.⁶ Harl., od.⁷ ne is from Harl. alone.⁸ Harl., garrauntas ceo, instead of garrauntisse.⁹ Harl., Nai.

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A.D. 1342. good consideration. And, Sir, in case a stranger makes a release with warranty of the fee simple to my tenant for term of life, if my tenant be impleaded and vouch the person who released to him, and that person warrant him and lose, he will recover from that person to the value of the fee simple, although he only lost a freehold, because the lien which is according to the course of the warranty requires it; but if I warrant to him in respect of that of which he has a lien only for his life from me, he will recover only a freehold; and if two purchase to hold to them and the heirs of one of them, and they vouch simply and are warranted simply, they will recover to the value in the same manner; and if by our default he had recovered to the value, he would not have had any other estate than he had in the first land.—HILLARY. You may prejudice yourself more by your appearance and acceptance than if you had made default.—STONORE and SHARSHULLE said that every change of estate between them would give a voucher, on account of the mischief; and they said that what had been adjudged was not law, and therefore even if it were the fact that he had warranty of the fee simple the voucher would be good; and therefore (said they) let the voucher stand.

Formedon. (61.) § John [son of John le Clerk] of Great Marlow

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cestre en Baunk le Roi par bon avisement.¹ Et Sire, en A.D. 1342. cas qestraunge fait relees ove² garrantie de fee simple a mon tenant a terme de vie, si mon tenant soit emplede et vouche celuy qe releessa a luy, et il luy garrante et perde, il recovers a la value vers luy fee simple, tout ne perdist il forsque fraunctenement, pur ceo qe le lien³ qest cours⁴ de la garrantie le demande; mes, si jeo luy garraunte⁵ de qi il nad⁶ lien forsque pur sa vie de moi, il recovers forsque fraunctenement; et si deux purchacent a eux et les heirs lun, et simplement vouchent et simplement soient garrantis, il recoverent a la value par mesme la manere; et si par nostre defaute il ust recovere⁷ a la value, il nust eu altre estat qil navoit⁸ en⁹ la primere terre.—HILL. Vous poez plus prejudicier a vous mesmes par vostre apparaunce et accepter qe si vous ussez fait defaute.—STON. et SCHAR. disoient qe chesqun chaunge destat entre eux durreit vouchier pur le meschief; et disoient qe ceo qe fut ajugge nest¹⁰ pas ley, et pur ceo tut fut ceo issi qil ust garrantie de fee simple le vouchier serroit bon; et pur ceo estoise le vouchier, &c.

(61.)¹¹ § Johan de Graunt Merlawe porta Forme de Forme de
doun.

¹ Harl., mesqe nous ne sumes pas en le cas, instead of en une Assise de Mortdauncestre en Baunk le Roi par bon avisement.

² Harl. od.

³ Harl., lui, instead of le lien.

⁴ 25,184, sours.

⁵ 25,184, garraantis.

⁶ 25,184, nya.

⁷ Harl., respondu.

⁸ 25,184, y avoit.

⁹ 25,184, a.

¹⁰ T., ne fuit.

¹¹ From T., 25,184, and Harl., but corrected by the record *Placita de Banco*, Mich., 16 Edw. III.

R^o. 442, d. It there appears that the action was brought by John son of John le Clerk, of Great Marlow, against William, Master of the Hospital of St. Thomas the Martyr, of Southwark, in respect of a moiety "exituum provenientium de duobus molendinis ipsius Magistri cum pertinentiis in Magna Merlawe, quam Godardus quondam Magister Hospitalis . . . dedit Johanni de Magna Merlawe, Clerke" in tail. In the count it was alleged that "per donum idem Johannes fuit seisitus in dominico suo ut de feodo

No. 61.

A.D. 1242. brought a Formedon against William, Master of the Hospital of St. Thomas the Martyr, of Southwark, and demanded a moiety of the issues arising out of two mills in Marlow. And he counted, by *Thorpe*, that the Master's predecessor gave to John's grandfather, &c., and that by reason of the gift he was seised according to the form, &c., and took the esplees as in toll of the corn ground, and flour, and bran, and other kinds of issues of the profit of a moiety of the mills.—*Notton*. He has demanded a moiety of the issues, which is uncertain, for by that demand one can not know whether his demand is for money, or some other profit.—*HILLARY*. You can know by the esplees, for he has laid the esplees as in toll.—*Notton*. His demand, which is obscure, should be made clear by the declaration, as in the case of a *Quod permittat* for estovers the plaintiff must count that the defendant does not suffer him to have reasonable estovers, that is to say, to take so much, and that must be made clear and certain before the esplees are laid.—*Thorpe*. In a *Quod permittat* the plaint is not made with certainty, but in every *Præcipe* the demand is made with certainty; and if one were to count of any other matter than that expressed in the writ, the count would abate.—*HILLARY*. Answer.—*Notton*. He has laid the esplees as in toll of a mill, whereas that is not in demand; judgment of the count.—*HILLARY*. The esplees are laid in respect of that which properly falls under the head of profit of a mill; therefore answer.—*Notton*. Judgment of the writ, because the demand is not made with certainty, for by the manner of his demand in the writ one is not apprised of what he demands.—*Thorpe*. I have demanded according to what the form of the gift originally gave to my ancestor, and I could not have any other

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doun vers W. Maistre del Hospital de Seint Thomas ¹ de A.D. 1342.
 Suthwerke, et demanda la moite des issuez ² avenantz de ^{[Fitz.}
 deux molyns en M. Et counta par *Thorpe* qe soun ^{Formedon,}
 predecessour dona al aiel Johan, &c., par quel doun il ^{29.]}
 fut seisi par la forme, &c., et prist les esplees come
 en toun des blees ³ [moltz,⁴ et faryne, et breez],⁵ et altre
 manere dissue de profit de moite des molyns.—*Nottone*.
 Il ad demande la moite des issues qe est en noun
 certeyn, qar par cele demande homme ne poet saver
 le quel sa demande soit de deniers ⁶ ou altre ⁷ profit.
 —*HILL*. Par les esples poez vous saver, qar il ad
 lie les esples de toun.—*Nottone*. Sa demande serra
 desclare qest obscure ⁸ par declaracion, come en cas de *Quod*
permittat des estovers il countera qil ne luy soeffre
 aver renables estovers, saver a prendre tant, et ceo serra
 desclare en certain avant qe les esples soient lies.—
Thorpe. En *Quod permittat* nest pas la plainte en cer-
 tein, mes en chesqun *Præcipe* la demande est en certain ;
 et si homme countast daltre chose qe le bref ne voleit le
 counte abatereit.—*HILL*. Responez.—*Nottone*. Il ad
 lie les esples de toun de molyn, ou ceo nest pas en
 demande ; jugement de counte.—*HILL*. Les esples
 sount lies de ceo qe chiet en profit de molyn pro-
 prement ; pur ceo responez.—*Nottone*. Jugement de
 bref, qar la demande nest pas en certain, qar par la
 manere de sa demande en bref homme nest pas appris
 quei il demande.—*Thorpe*. Jay demande solonc ceo qe
 la forme comencea en moun auncestre, et altre bref

" et jure per formam, &c. . . .
 " capiendo inde espletia," but the
 nature of the esples is not stated
 in the roll. The descent is traced
 from the donee to the demandant
 as grandson and heir. Nothing
 further is shown except the tenant's
 prayer to have view (which was
 granted) and some adjournments.

¹ T., and 25, 184, Mark.

² T., profits.

³ Harl., blades.

⁴ Harl., molnis.

⁵ The words between brackets are
 omitted from 25, 184.

⁶ T., diners.

⁷ 25, 184, dautre.

⁸ T., obscure.

Nos. 62, 63.

A.D. 1342. writ.—*Notton*. You should demand a moiety of the toll of the mills.—*SHARDELOWE*. That would be at variance with his facts; besides, if a mill which is a corn-mill were changed into a fulling-mill, what should he demand?—*Notton*. He should demand with certainty in accordance with that of which he has been seised.—*STONORE*. A demand of the profits of a mill is different from the demand of a mill, because the person who is to have the profits will have them without charge; and also the profits may be something other than toll, such as profits of fishery in the pool, and he must take the writ according to his facts, and this writ is given to him on his case, &c.—*Notton*. Suppose I were to give you a moiety of the profits of two acres of land, what demand will you make, &c.—Nevertheless, the writ was adjudged good.—Afterwards he had view.

Note :
Quare
impedit.

(62.) § Note that the King brought a *Quare impedit* against Master R. de Harndone in respect of a prebend in the church of Southwell. On the Grand Distress he came, and pleaded to the inquest, and afterwards made default.—*STONORE*, by reason of his default, awarded a writ to the Bishop, and not an inquest, because the Grand Distress had previously issued.—*Quære* what would have been done if he had come by attachment and then had made default?

Scire
facias.

(63.) § A fine was levied, in the time of the King's grandfather, by writ of Covenant, of one messuage, three acres of land, and 3s. of rent in B., and they were rendered; and "*præterea*" the reversion of whatever Rosamond held in dower in A. and other villis was

Nos. 62, 63.

ne puis jeo avoir.—*Nottone*. Vous demanderez la moite A.D. 1342.
del toun des molyns.—*SCHARD*. Ceo serreit desacor-
daunt a soun fait; ovesqe ceo, si un molyn qest blaieret¹
fut chaunge² en un molyn fulleret,³ quei demandera il?
—*Nottone*. Il demandera en certain solonc ceo qil
ad este seisi.—*Ston*. Il est altre a demander les profitz
du⁴ molyn [qe a demander le molyn],⁵ qar celui qe
avera les profitz il avera saunz charge; et auxi les
profitz pount estre altre qe toun, come profit de pescherie
en lestaunk, et solonc soun fait il covient prendre le bref,
et ceo bref luy est done sour⁶ son cas, &c.—*Nottone*.
Jeo pose qe jeo vous doune la moite du profit de deux
acres de terre, quele demande averez vous, &c.?—*Tamen*
la bref agarde bon, &c.⁷—*Postea habuit visum*.⁸

(62.)⁹ § *Nota* qe le Roi porta *Quare impedit* vers *Nota* ^{(10):}
Maistre R. de Harndone¹² dune provendre en leglise de *Quare im-*
Southwelle. A la grande destresse il vynt, et pleda al *pedit* ^{(11).}
enqueste, et puis fist defaute.—*STON*. par¹³ sa defaute *[Fitz.*
agarda bref al Evesqe et noun pas enqueste, pur ceo qe *Briefs al*
la grande destresse devant fuit issue.—*Quare*, sil ust *Evesque,*
venu par lattachement et puis fist defaute, *quid fieret?* ^{17.]}

(63.)¹⁴ § La fyne fut leve en temps laiel le Roi, par bref *Scire*
de Covenant, dun mesnage, trois¹⁵ acres de terre, et iijs.¹⁶ *facias*.
de rente en B., et ceo fut rendu; et *præterea* quanqe
Rosamonde tint en dowere en A. et altres villes la

¹ 25,184, blaereit; Harl., eweret.² Harl., turne.³ Harl., fullereit; 25,184, qe ful-
lereit.⁴ 25,184, un.⁵ The words between brackets are
omitted from Harl.⁶ 25,184, solonc.⁷ The words *Tamen* le bref agarde
bon are from Harl. alone.⁸ The words *Postea habuit visum*
are from 25,184 alone.⁹ From T., 25,184, and Harl.¹⁰ *Nota* is from T. alone.¹¹ The words *Quare impedit* are
omitted from T.¹² 25,184, Haryngdone.¹³ Harl., sour.¹⁴ From T., 25,184, and Harl.¹⁵ 25,184, iiij.¹⁶ T., iiij.

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A.D. 1342. granted by the same fine. And the writ *Quia certis de causis* comprised only that which was rendered with certainty by the fine, and in the same manner was the *Mittimus* directed to the Justices. And the *Scire facias* is sued in respect of one messuage and one virgate of land which Rosamond held at the time when the fine was levied.—*Pulteney*. The fine has come into this Court without warrant, for neither the *Certis de causis* nor the *Mittimus* agrees with the fine; and, besides, this writ of *Scire facias* is not warranted by the fine which was sent to you to be put in execution, for the writs by which you have the fine suppose other tenements than those which the *Scire facias* mentions.—*Grene*. Neither the writ of *Certis de causis* nor the *Mittimus* shall by the form of the Chancery be for anything but what is expressed with certainty by the fine; wherefore that does not prove that when the fine is sent into this Court it shall not be put into execution.—*R. Thorpe*. Suppose that everything comprised in the fine had been in demand and not made certain.—*Grene*. Then the writ should be according to the case, and otherwise not.—*SHARDELOWE*. When there is in a fine such a *præterea* relating to tenements whereof there is no plea, and there is in the fine another quantity expressed with certainty in the fine, I think that he will have no other writ than such as this is.—It was afterwards said by the Court that the fine had come by sufficient warrant.—Thereupon exception was taken to the writ on the ground of false Latin, and it was abated.

Avowry. (64.) § *Pole* avowed the taking for the reason that the

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reversion fut graunte par mesme la fyne. Et le A.D. 1342.
 bref *Quia certis de causis*, &c., ne comprist forsque
 ceo qe fut rendu¹ en certain par la fyne, et en
 mesme la manere fut le *Mittimus* direct as Justices.
 Et le *Scire facias* est suy dun mesuage et une verge de
 terre qe Rosamonde tint al temps de la fyne leve.—*Pult.*
 La fyne est venuz ceinz saunz garrant, qar le *Certis*
de causis ne le *Mittimus* ne se accordent pas a la fyne ;
 et ovesqe ceo, cestuy bref de *Scire facias* nest pas
 garranti de la fyne qe² vous fut maunde de mettre
 en execucion, qar les brefs par quex vous avez la fyne
 supposent altres tenementz qe le *Scire facias* ne voet.—
Grene. Le bref de *Certis de causis* ne le *Mittimus*
 ne serra pas par forme de Chauncellerie forsque de ceo
 qest mys en certeyn par la fyne ; par quei ceo ne prove
 pas qe quant la fyne est ceinz maunde qele ne serra mys
 en execucion.—*R. Thorpe.* Jeo pose qe tut la fyne ust
 este demande³ en noun certain.—*Grene.* Donques serra
 le bref acordaunt al cas, et autrement nient.—*SCHARD.*
 La ou il y ad un tiel *prætere* en une fyne des tenementz
 dount plee nest pas, et il y ad autre quantite en certain
 en la fyne, jeo quide qil navera nul autre bref qe ceo
 nest.—*Postea* fuit dit par la Court qe la fyne est venuz
 par suffisaunte⁴ garrant.—Par quei le bref fuit challenge
 pur faux Latyn, et abatu.

(64.)⁵ § *Pole* avowa la prise par la resoun qe le pleintif *Avowerie*.

¹ T., and 25,184, demande.

² Harl., et.

³ T., de demande.

⁴ T. suffisaunte.

⁵ From T., 25,184, and Harl.,
 but corrected by the record, *Placita*
de Banco, Mich. 16 Edw. III.,
 R^o. 383, d. It there appears that
 the action was brought by John de
 Braundestone v. John Haclut and
 others. The avowry by John Haclut,
 on behalf of himself and the others,

was "quod quidam Johannes de
 " Braundestone, pater prædicti Jo-
 " bannis qui nunc queritur, tenuit
 " de quodam Theobaldo de Neville,
 " quondam domino manerii de
 " Braundestone, unum mesuagium
 " et duas virgatas terræ . . .
 " in Braundestone . . . ut de
 " manerio suo prædicto, per homa-
 " gium, fidelitatem, et servitium
 " unius sagittæ barbatae per annum
 " . . . De ipso Theobaldo des-

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A.D. 1342. plaintiff held of the avowant one messuage and one carucate of land (and he showed how, that is to say, through grant and attornment, &c.) by homage, fealty, and one barbed arrow, &c.; and for the homage in arrear he avowed, &c.—*Pulteney*. We tell you that we hold of the avowant a place called A., and three acres of land, whereof the place where the taking was effected is parcel, by fealty and one arrow for all services; and as to the homage, the person by whose hand he has laid

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tynt del avowant, et moustra coment par grant et attournement, &c., par homage, fealte¹ et une sete² barbele,³ &c., un mesuage et une carue de terre, &c.; et pur lomage arrere il avowa, &c.—*Pult.* Nous vous dioms qe nous tenoms del avowaunt une place appelle A., et iij. acres de terre, dount le lieu ou la prise est faite est parcele⁴ par fealte¹ et une sete pur touz services; et quant al homage, celui par qi mayn il ad lie seisine unqes

" cendit manerium . . . cuidam
 " Alicie, ut filie et heredi, que
 " quidem Alicia modo est uxor
 " predicti Johannis Haclut. Et
 " postea idem Johannes Haclut et
 " Alicia de manerio predicto ad
 " quod, &c., feoffaverunt quendam
 " Galfridum Skefytngtone habendo
 " et tenendo eidem Galfrido et
 " heredibus suis in perpetuum, per
 " quod quidem feoffamentum prædictus Johannes de Braundestone
 " pater, &c., de predictis fidelitate
 " et sagitta eidem Galfrido se attornavit. Et postea quidam finis
 " levavit inter predictos Johannem
 " Haclut, et Aliciam uxorem ejus
 " querentes, et predictum Galfridum deforciantem, de manerio
 " predicto ad quod, &c., scilicet,
 " quod predicti Johannes Haclut
 " et Alicia recognoverunt prædictum manerium cum pertinentiis
 " ad quod, &c., esse jus ipsius Galfridi, et pro illa recognitione, &c.,
 " idem Galfridus concessit et reddidit predictis Johanni Haclut
 " et Alicie prædictum manerium

" ad quod, &c., tenendum eidem
 " Johanni Haclut et Alicie [in
 " special tail with remainder to
 " Alice's right heirs] tenendum de
 " capitalibus dominis feodi, &c.,
 " virtute cujus finis prædictus Johannes de Braundestone pater,
 " &c., attornavit se predictis Johanni Haclut et Alicie de fidelitate et sagitta barbata predictis,
 " &c. Et de prædicto Johanne de Braundestone patre descenderunt
 " prædicta mesuagium et duæ virgatæ terræ cum pertinentiis
 " prædicto Johanni de Braundestone ut filio et heredi qui nunc
 " queritur, &c. Et quia homagium
 " prædicti Johannis filii Johannis,
 " et duæ sagittæ barbata ei a retro
 " fuerunt per duos annos . . .
 " advocat ipse prædictam captionem, &c."

¹ Harl., foialte.

² Harl., seet.

³ 25, 184, and Harl., barbe.

⁴ The words ou la prise est faite est parcele are in T., represented by "&c."

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A.D. 1342. the seisin was never seised; ready, &c.—*W. Thorpe*. We are now disputing as to the seisin and as to the quantity of the tenancy supposed by our avowry, and the tenancy is the gross; wherefore, as to the traverse of the seisin, we can not take a traverse until we be at one with regard to the tenancy; wherefore we will aver the tenancy supposed by the avowry.—*R. Thorpe*. You can not do that when the avowry is made for homage, which is due for every parcel; but it would be different perchance if distress were made for rent wherewith no parcel was charged except for its portion.—*W. Thorpe*. It seems that the law is the same in both cases; for if I were now to plead to the seisin, and it were found that he was seised, or was not seised, if at another time I were to avow for that which he held of me according as I suppose now, on that avowry he would oust me by reason of the acceptance on this avowry.—*SHARDELOWE*. He would not do so; and you must maintain the seisin in this case, because, be the tenancy more or less, homage is due.—*W. Thorpe*. Seised of the homage; ready, &c.—And the other side said the contrary.

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seisi ; prest, &c.¹—*W.² Thorpe.* Nous sumes a debat ore A.D. 1842 de la seisine et de la quantite de la tenance suppose par nostre avowere, et la tenance est le gros ; par quei a la seisine traverse nous ne poms prendre travers tanqe nous soioms a un de la tenance ; par quei nous voloms averer la tenance suppose par lavowere.—*R.³ Thorpe.* Ceo ne poez pas quant lavowere est fait pur homage gest due de chesqun parcelle ; mes altre serroit par cas si destresse fut fait pur rente de quei nule parcele serroit charge, mes pur la porcion.—[*W.*] *Thorpe.* Il semble qe la ley est owele en lun cas et en lautre ; qar si jeo pledasse ore a la seisine, et trove fut qe seisi ou nient seisi, autrefoitz si jeo avowasse pur ceo qil tient de moy solonc ceo qe jeo suppose a ore, par ceste avowere il moi oustereit⁴ par lacepter en ceste avowere.—*SCHARD.* Noun freit ; et il vous covient meyntener la seisine en ceo cas, qar, soit la tenance plus ou meyns, homage est due.—*W.² Thorpe.* Seisi del homage ; prest, &c.⁵—*Et alii e contra.*

¹ Harl., par sa meyn, instead of prest, &c. According to the record the plea was "quod . . . idem Johannes de Braundestone non tenet de eo [Johanne Haclut] nisi unam placeam, quæ vocatur Smetheplace, et tres acras terræ cum pertinentiis in prædicta villa de Braundestone, unde prædictus locus est parcella, per fidelitatem et servitium unius sagittæ battæ per annum . . . pro omni servitio. Et quo ad illa servitia nihil inde a retro est. Et quo ad prædictum homagium dicit quod prædictus Theobaldus

" antecessor, &c., nunquam seisisus
" fuit de homagio illo. Et hoc
" paratus est verificare, &c."

² W. is from 25,184, alone.

³ R. is from Harl. alone.

⁴ 25,184 and Harl., estereit.

⁵ In the replication, according to the record, the statements as to the quantity of land held and the nature of the services are repeated as in the avowry, as well as the statement that Theobald was seised of the homage. Upon this issue was joined. John Haclut prayed and had aid of his wife, and the *Venire* was awarded.

No. 65.

A.D. 1342. (65.) § Henry de Ferars brought a writ of Formedon
Formedon: against John de Haveryngton, the younger, knight, and
Descender. others by three *Præcipes*, and demanded two manors;
and in each *Præcipe* there was demanded the fourth
part of two manors, except, &c., in the same manors.—
Moubray. By the writ there is supposed in each
Præcipe an exception from the two manors, *per my et*
per tout, and it is to be understood that there was such
exception when the manors were not severed into parts;
and in one *Præcipe* he has made a greater exception
than in another, so the writ is repugnant; for each

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(65)¹ § Henre de Ferars³ porta bref de⁴ Fourme de A.D. 1342.
 doun vers Johan de Haveryngtone, le puisne, chivaler, et Fourme
 autres, par trois *Præcipes*, et demanda deux maners; et de doun:
 en chesqun *Præcipe* si fut demande la quarte partie de Descen-
 deux maners, forpris, &c., en mesmes les maners.— dre (?).
Moubray. Par bref est suppose en chesqun *Præcipe*⁵
 forpris en les deux maners, par my et par tut, et cest a
 entendre qe tiele⁶ forprise y avoit quant les maners ne
 furent pas severes⁷ en parties; et en asqun *Præcipe* il
 ad fait greindre forprise qe en altre, issi le bref repug-

¹ From T., 25,184, and Harl., but compared with the record, *Placita de Banco*, Mich., 16 Edw. III., R^o. 444d. It there appears that by the writ Henry de Ferars demanded "versus Johannem de Haveryngtone, chivaler, juniorem, et Katerinam uxorem ejus, quartam partem maneriorum de Chorleghe et Boltone othe Mores cum pertinentiis, exceptis decem mesuagiis, sexaginta et quinque acris terræ, centum acris bosci, et quarta parte unius mesuagii in eisdem maneriis; et versus Thomam de Arderne, chivaler, quartam partem maneriorum de Chorleghe et Boltone othe Mores cum pertinentiis, exceptis decem mesuagiis, quadraginta et septem acris terræ, centum acris bosci, et quarta parte unius mesuagii in eisdem maneriis; et versus Agnetem, quæ fuit uxor Roberti de Hornlyve, chivaler, quartam partem maneriorum de Chorleghe et Bolton othe Mores cum pertinentiis, exceptis tresdecim mesuagiis, quadraginta et septem acris terræ, centum acris bosci, et quarta parte unius mesuagii in eisdem maneriis;

"quæ Robertus de Ferariis nuper Comes Derbise dedit Willelmo de Ferariis et heredibus de corpore suo exeuntibus, et quæ post mortem prædicti Willelmi, et Willelmi filii et heredis ejusdem Willelmi ide Ferariis, præfato Henrico filio et heredi ejusdem Willelmi filii Willelmi de Ferariis descendere debent."

The count is correctly worded: "Idem Henricus dicit quod prædictus Comes dedit prædictas quartas partes prædictorum maneriorum cum pertinentiis exceptis, &c., prædicto Willelmo de Ferariis in forma prædicta." The abatement of the writ is not expressly mentioned in the record, but the fact may be inferred from the abrupt termination at the end of the count.

² Descendre is omitted from T., which MS. alone has the words *Forme de doun*.

³ 25,184, *Freres*.

⁴ The words bref de are from 25,184 alone.

⁵ Harl., bref.

⁶ Harl., cele.

⁷ Harl. ceveres.

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A.D. 1342. exception is out of the whole.—*Pulteney*. The demand and exception must be made in accordance with the tenancy of the parties.—*SHARDELOWE*. Answer.—*Moubray*. Judgment of the writ; for he demands a fourth part against each, and then the subsequent words of the writ are *quæ Robertus dedit*, which is false Latin, for it should be *quas*.—*Pulteney*. The *quæ* relates to the manors, *quæ maneria*.—*Blaykeston*. He does not by the writ demand manors but fourth parts; and if I demand one moiety of a messuage against one man, and another moiety against another man, and then say *quod* such an one gave, that would be false Latin; so here.

Recogni-
sance:
Execu-
tion.

(66.) § A recognisance was made to Edmund Denome, to pay at divers terms, and when a year had passed after the time for the first payment, but it was still within the year with regard to another term of payment, Edmund came and prayed an *Elegit*; and this was denied to him, because the whole had not yet become due.—*STONORE* granted him a *Fieri Facias* in respect of all that was in arrear, for he said that it is all one debt; and he said that although it was to be paid in four years and at four terms, after the last instalment had become due within the last year he would give him a *Fieri Facias*.—And this was against the opinion of his companions and of the clerks, who said that the course had always been to grant a *Fieri Facias* only for that which was within the year, and a *Scire Facias* for the rest.

Dower.
Nota bene.

(67.) § Nicholas Cantelow and his wife brought a

Nos. 66, 67.

naunt; qar chesqun forprise est del entier.—*Pult.* Il A.D. 1342.
 covient demander et faire la forprise acordaunt a lour
 tenance.—*SCHARD.* responez.—*Moubray.* Jugement de
 bref, qar il demande vers chesqun un quarte partie, et
 donques voet le bref apres *quæ Robertus*¹ *dedit*, qest faux
 Latyn, qar il serroit *quas*.—*Pult.* Le *quæ* refiert a les
 maneres, *quæ maneria*.—*Blaik.* Il demande pas par
 bref maneres mes quarte parties; et si jeo demande la
 moite dun mies vers un homme, et un altre moite vers
 un altre, et puis die *quod* un tiel dona, ceo serroit faux
 Latyn; auxi ycy.

(66.)² § Une reconisaunce fuit fait a Edmond⁴ Denome, Recon-
 a paier a divers termes, et apres lan passe del primer saunce:
 paiement, mes ceo fuit deinz lan quant a un⁵ altre terme, Execu-
 Edmond⁴ vint et pria *Elegit*; et ceo luy fuit veie,⁶ pur cion⁽³⁾.
 ceo qe tut nest⁷ pas unquore encoru.—*STON.* luy graunta [Fitz.
Fieri facias, 4.]
 de tut qe fuit aderere⁸ *Fieri facias*, qar il dist qe cest
 tut un dette; et dist qe tut fuit ceo a paier par iiij ans
 et par iiij. termes, apres le derrein terme encoru deinz
 cel derrein an il luy durreit *Fieri facias*.—Et ceo fuit
 countre lassent de ses compaignons et clerkes qe disoient
 qe touz jours le cours ad este de graunter soulement
Fieri facias de ceo qe fuit deinz lan, et del remenant
Scire facias.

(67.)⁹ § Nichole Cantelowe et sa femme porterent Dower :

¹ T., and 25,184, J.; Harl., Johan.

² From T., 25,184, and Harl.

³ Execution is omitted from T., which MS. alone has the word Reconisaunce.

⁴ Harl., Esmond.

⁵ T. and 25,184, dun, instead of quant a un.

⁶ 25,184, wee; Harl., denye.

⁷ T., ne fuit.

⁸ 25,184, derere.

⁹ From T., 25,184, and Harl., but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., Ro. 625. It there appears that the action was brought by Nicholas de Cantilupo and Joan his wife against Robert Darcy, knight, and Joan his wife, who vouched Gilbert de Umframville, Earl of Angus, and John de Bulmere as cousins and heirs of William de Kyme.

No. 67.

A.D. 1342. writ of Dower, on the endowment of William de Kyme, her first husband, &c., against one who vouched the Earl of Angus and John Bulmere, cousins and heirs of the first husband. The *Cape ad valentiam* was returned upon the vouchees, to wit that the Earl who now makes default was previously summoned, and that land to the value had been taken; and as to the other vouchee, he had nothing by descent, where, &c., or which could be taken. The tenant testified that the latter vouchee had assets at W. and L. in the same county and prayed an *alias* writ.—*Gaynesford*, for the demandants, prayed seisin of a moiety by reason of the default of one of the vouchees.—*SHARDELOWE*. That cannot be before the writ be served.—*Blaykeston*. Against him the writ is well served.—*SHARDELOWE* (to the demandant). Will you say that he who makes default has assets by descent?—*Gaynesford*. No; but we pray judgment.—*SHARDELOWE*. The voucher is all one, and the writ is not served.—*Blaykeston*. If the writ were served, and one were to come, and the other were to make default, we should have judgment for a moiety.—*SHARDELOWE*. That is true, where the writ is served; but when it is not there is no other course but to sue as far as the *Sequatur suo periculo*.—Wherefore judgment on the default was respited; and process by *testatum est* was had against the other.

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bref de Dowere, del dowement W. de Kyme, primer baroun &c.,² vers un qe voucha le Counte de Angous³ et Johan Bulmere cosyns et heirs le primer baroun. Le *Cape ad valentiam* retourne sur les vouches, saver qe le Counte qe ore fait defaute altrefoitz fut⁴ somons et a la value pris; et quant al autre vouche il nad riens par descende ou, &c., ne qe purra estre pris.—Le tenant tesmoigna⁵ qil ad assetz en mesme le counte saver en W. et L., et pria *Sicut alias*.—*Gayn.* pur les demandauntz, pria seisine de la moite par la defaute lun des vouches.—SCHARD. Ceo ne poet estre avant qe le bref soit servy.—[*Blaik.* Vers luy le bref est bien servy.⁶]—SCHARD. a la demandaunte. Voillez dire qe celuy qe fait defaute ad assetz par descende?—*Gayn.* Nanyl; mes nous prioms jugement.—SCHARD. Le voucher est un, et le bref nest pas servy.—*Blaik.* Si le bref fuit servy, et lun venist, et lautre feist⁷ defaute, nous averoms jugement de la moite.—SCHARD. Cest verite, ou le bref est servy, mes quant il nest pas servy⁸ il ny ad altre voie forsque suir tanqe le *Sequatur suo periculo*.—Par quei le jugement fuit respite sur la defaute; [et proces par *testatum*⁹ est fait]¹⁰ vers lautre.¹¹

A.D. 1342.
Nota bene (1).
[Fitz.
Jugement,
110.]

¹ The words *Nota bene* are from T. alone.

² The words primer baroun, &c., are omitted from Harl.

³ T., de Angousse; Harl., Dangosse, instead of de Angous.

⁴ T. and Harl., est.

⁵ Harl., testmoigna.

⁶ The words between brackets are omitted from T.

⁷ 25, 284, fait; Harl., fist.

⁸ servy is omitted from Harl.

⁹ 25, 184, proteste.

¹⁰ The words between brackets are omitted from Harl.

¹¹ According to the record: "Et testatum est hic per attornatum

" prædictorum Roberti et Johanne
" uxoris ejus quod prædictus Jo-
" hannes habet terras et tenementa
" apud Croxby in prædicto Comi-
" tatu Lincolnie, et etiam in
" Civitate Lincolnie, et in sub-
" urbio ejusdem Civitatis, quæ
" capi possint in manum domini
" Regis ad valentiam, &c. Ideo
" sicut pluries præceptum est præ-
" dictis Vicecomitibus singillatim
" quod capiant in manum domini
" Regis de terra prædicti Johannis
" ad valentiam, &c., pro portione,
" &c., et quod summoncant eum
" quod sit in Octabis Sancti Hilarii,
" prece petentium, audiendus inde

. No. 68.

A.D. 1842. (68.) § Formedon. It was supposed that the demandant's ancestor gave to one W. in frank marriage with J. his daughter.—*Pole*. You shall not be admitted to aver the gift in that manner, for the person whom you suppose to be the donor gave the same tenements to that same W., to whom you suppose the gift was made, in fee simple with warranty by this deed ;—(and he said that W. was his uncle)—judgment whether you shall be admitted to say that he gave in any other manner.—*Moubray*. We suppose by the writ that the gift was made to a person other than the deed purports ; wherefore that is not effectual for the purpose of ousting us from maintaining the gift.—*SHARDELOWE*. Do you think, because you name another person in the writ with W., that on that account he will thereby lose the advantage of the deed ?—*Gaynesford*. Yes, Sir, according to the manner in which he uses it ; for if he were to plead the warranty in bar, perchance, he would put me to answer ; but when he uses the deed to contradict the gift supposed by my writ to have been made to another person who is not named in the writ, the law does not put me to answer that.—*SHARDELOWE*. Then will you not say anything else ? Is it your ancestor's deed ?
Answer.

No. 68.

(68.)¹ § Fourme de doun. Fuit suppose qe launcestre le demandaunt dona a un W.³ ove J. sa fille en fraunc mariage.—*Pole*. Daverer le doun par la manere ne serrez resceu, qar celui qe vous supposez estre donour dona mesmes les tenementz a mesme celui W., a qi vous supposez le doun estre fait, par ceo fait en fee simple ove⁴ garrantie—et⁵ dit qe W. fut son uncle;⁶ jugement si vous serrez resceu a dire qil dona en⁷ altre manere.—*Moubray*. Nous⁸ supposoms [par bref le doun estre fait a altre persone qe le fait ne purporte; par quei ceo nest pas a purpos de nous ouster de meyntener]⁹ le doun.—*SCHARD*. Quidez vous¹⁰, pur ceo¹¹ qe vous nomez un altre el¹² bref¹³ ovesqe W., qe par tant¹⁴ il perdra¹⁵ lavantage du fait?—*Gayn*. Oyl, Sire, a la manere qil luse; qar sil pledast en barre par la garrantie, par cas il moy mettra de respoudre; mes quant il luse¹⁶ a¹⁷ contrarier le doun suppose par moun bref estre fait a autre¹⁸ qe nest nome el¹⁹ fait,²⁰ ley ne moy mette a ceo respoudre.—*SCHARD*. Donques ne voilletez altre chose dire? Est ceo le fait vostre auncestre? Respondez.

A.D. 1342.

Fourme
de doun :
Reverti.²

“ judicium suum, &c. Et judicium
“ versus prædictum Comitem super
“ defaultam, &c., respectuatur hic
“ usque ad præfatum terminum,
“ &c.”

¹ From T., 25,184, and Harl.

² The word *Reverti* is from 25,184 alone, from which MS. the words *Fourme de doun* are omitted.

³ The words *a un W.* are omitted from T.

⁴ Harl., *od*.

⁵ *et* is omitted from T.

⁶ Harl., *vouche*.

⁷ Harl., *par*.

⁸ Harl., *vous*.

⁹ The words between brackets are omitted from 25,184.

¹⁰ 25,184, *Unques*, instead of *Quidez vous*.

¹¹ The words *pur ceo* are omitted from Harl.

¹² T. *en*.

¹³ The words *el bref* are omitted from 25,184.

¹⁴ T. and 25,184, *pur ceo*, instead of *par tant*.

¹⁵ 25,184, *pledra*.

¹⁶ Harl., *le use*; 25,184, *ne use*.

¹⁷ Harl. and 25,184, *de*.

¹⁸ The words *a autre* are omitted from 25,184.

¹⁹ Harl. *en*.

²⁰ T. *bref*.

Nos. 69, 70.

Fine. (69.) § Note that Robert Parning,¹ knight, and Thomas Worship rendered by fine certain manors to Richard Kirkebride and Joan his wife and the heirs male of the body of Richard begotten, and if he should die, &c., to two other persons severally by the same form, &c., and if, &c., then that the tenements should remain to the said Richard and the heirs of his body begotten, &c. And so by the fine two different estates tail were limited to him; and this was strange. But one has seen land by fine first limited to one person and the heirs male of his body, and afterwards the remainder limited to the heirs of his body begotten; but note that the chirographers amended it.

Formedon. (70.) § Formedon, for brothers, in respect of tenements partible by custom within the Soke of Horncastle; and three were named, and one of them was severed by reason of his nonsuit.—*Thorpe*. We tell you that we do

¹ As to this name, see p. 513, note 2, and see Y.B. 16 Edw. III., Part I., p. xcix., note 1.

Nos. 69, 70.

(69.)¹ § *Nota* qe Robert Parnyng,² chivaler, et Thomas Worschip³ renderent par fyne certainz maners a Richard Kirkebride et Johane sa femme et les heirs madles du corps Richard engendres, et sil deviest, &c., a altres deux severalment par mesme la forme, &c.; et si, &c., donques qe les tenements remeignent al dit Richard [et les heirs de son corps engendres, &c.]⁴ Et issi par ceste fyne furent deux estates⁵ de divers tailles tailles [a luy; *quod mirum fuit*. Mes homme ad view par fyne estre primes taille a un et les heirs madles de soun corps et apres taille]⁶ le remandre⁷ a les heirs de soun corps engendres; *sed*⁸ *nota* qe les cirograffours lamenderent.

(70.)⁹ § *Forme* de doun pur freres des tenements de par- tables par usage deinz la soke de Horncastre, et trois¹⁰ furent nomes, dount un fut severe par sa noun suyte.—

¹ From T., 25, 184, and Harl., but corrected by the record, *Placita de Banco*, Mich., 16 Edw. III. R^o. 603 d. It there appears that the writ of Covenant was brought by Richard son of Walter de Kirkebryde against Robert Parnyng or Parning, knight, and Thomas Worschip in respect of the manor of Kirk Andrews and a third part of the manor of Levington (Cumberland). The record contains an enrolment of Letters Patent granting the King's license to levy the fine in terms specified, and an enrolment of Letters Close directing the Justices to admit the fine, which was accordingly admitted. The render, to which reference seems to be made in the report, was of certain parts of the manors to Richard in tail male, with successive remainders to his daughter Margaret in tail male, to Elizabeth her sister in tail male, to the heirs

of the body of Richard, to Richard's brother John in tail male, and to the right heirs of Richard.

² In Harl. the reading is Parwyng or Perwyng. This is in the nature of evidence that the name of the well-known Chancellor Parning was in fact something else, *i.e.*, that the first n must be read as u, w, or v. It is not conclusive, because the spellings of names in the Year Books are, to say the least, very variable; but there is some other and better evidence which points in the same direction.

³ Harl., Wroshipe.

⁴ The words between brackets are omitted from T.

⁵ 25, 184, *estatur*.

⁶ The words between brackets are omitted from Harl.

⁷ T., *derrein*.

⁸ 25, 184, *et*.

⁹ From T., 25, 184, and Harl.

¹⁰ 25, 184, *vj*.

No. 71.

A.D. 1342. not admit that tenements within the Soke of Horncastle are partible except in certain villis, and there only as to socage lands and not lands holden by knight service; and we tell you that these tenements were in the seisin of King John, who, under the description of fifteen librates of land, rendered certain tenements, whereof the subject of the demand is parcel, by this charter, to one J., &c., to hold by [the service of] one knight's fee, and thus being in the King's seisin they could not be called partible, and they can not fix any custom in these tenements at that time; judgment whether by virtue of custom you can maintain this demand.—*Blaykeston*. This plea is double; one is that this land is holden by knight-service and that no land within the soke which is holden by knight-service is partible, so that even if the King had not been seised the rest precludes us; the other is the seisin of King John.—*Thorpe*. What we say is only to show how the King gave it.—*Blaykeston*. We do not admit what he has said about land holden by knight-service within the soke; and we tell you that the tenements are not comprised in the charter of King, &c.—And the other side said the contrary.

Writ on (71.) § A. brought a writ of *Quare Deforciat*,¹ on the

¹ This was in later times called *Quod ei deforciat* from the words of the writ.

No. 71.

Thorpe. Nous vous dioms qe nous ne conissons pas qe A.D. 1342.
les tenements deinz la soke de H. sount¹ departables,
sauf en certeinz villes, et ceo des tenementz tenuz² en
socage et noun pas en chivalerie; et vous dioms qe
ceux tenementz furent en la seisine le Roi Johan, qe,³
par noun de xv. livres de terre, rendist certeinz tene-
mentz, dount la demande est parcele, par ceste chartre,
a un J., &c., a tener par un fee de chivaler, ou⁴ en la
seisine le Roi il ne poaint estre ditz departables, et nul
usage adonques en ceux tenementz poait lier; jugement
si par force dusage puissez cest demande meyntener.—
Blak. Ceo plee est double; un est qe ceste terre est
chivalrie, et qe nule terre deinz la soke de chivalrie est
departable, issi qe tut nust pas le Roi est seisi, unquore
le remenant nous forclost; altre est la seisine le Roi
Johan.—*Thorpe.* Ceo qe nous parloms nest forsque de
monstrer coment le Roi le dona.—*Blak.* Nous ne
conissons pas ceo qil ad parle de chivalrie deinz la soke;
et vous dioms qe les tenementz ne sount pas compris
deinz le chartre le Roi, &c.—*Et alii e contra.*⁵

(71.)⁶ § A. porta bref sur estatut *Quare deforciat* Bref sur

¹ Harl., soient.

² tenus is from Harl. alone.

³ Harl., et.

⁴ Harl., et.

⁵ The words *Et alii e contra* are from Harl. alone.

⁶ T. From T., 25,184, and Harl. The case may possibly be that in *Placita de Banco*, Mich. 16 Edw. III., R^o. 541, d. It there appears that an action was brought by Alice, late wife of Matthew de Vilers, against William son of Richard de Wolveshey, of Howes, in respect of one bovat and four acres of land in Kinculton (Notts) as of her reasonable dower, whereof William deforced

her. William pleaded "quod prædicta

" Alicia nihil juris clamare potest

" in prædictis tenementis per hujus-

" modi breve, quia dicit quod

" hujusmodi breve datur per sta-

" tutum, videlicet in casu cum

" tenens ad terminum vitæ, per

" legem Angliæ, in dote, vel in

" feodo talliato, amiserint tene-

" menta quæ ipsi de tali statu

" tenent, per defaultam, &c. Et

" dicit quod prædicta Alicia et

" prædictus Matthæus quondam

" vir suus perquisiverunt tene-

" menta prædicta sibi et eorum

" heredibus in perpetuum in feodo

" simplici, quæ quidem Alicia, simul

No. 71.

A.D. 1342. Statute,¹ against B., who alleged that he held by purchase; judgment of the writ.—*Thorpe*. This writ has been pending since the eleventh year, for no reason, for even though the person who recovers by a default aliene, the action of the party can not be extinguished, and he can bring his writ only against the tenant of the freehold.—*Grene*. In some cases a writ shall be brought against a person who is not tenant, as for instance, in case an Abbot aliene, &c., by the Statute of Westminster the Second, the writ is given against the Abbot.—*Thorpe*. Such a writ or recovery will never be maintained as good.—*Grene*. The Statute gives this writ by express words against the party and against none other.—*Thorpe*. What about his heir?—*Grene*. No; and although the writ lie only against the party there is no mischief, for, freshly after the losing, by "journeys accounts," he can bring his writ, and if he is put to mischief it is his fault, which is not to be considered.—*Thorpe*. A purchaser is not put to any mischief, because he can have his warranty, or, if he is not warranted, he can plead as assignee and maintain the right on the recovery just as well as when at common law an assignee will plead mesne time in bar on a

A.D. 1342.
the Sta-
tute :
Quare
deforciat.

¹ 13 Edw. I. (Westm. 2) c. 4.

No. 71.

vers B., qe alleggea qe il tint par purchace; jugement de bref.—*Thorpe*. Ceo bref ad pendu puis *anno xj*² sur³ nyent,⁴ qar mesqe celuy qe recovere par defaute aliene, accion de partie ne poet estre esteinte, et il ne poet porter son bref forsqe vers tenant de fraunc tenement.—*Grene*. En cas homme portera bref vers celuy qe nest pas tenant, come⁵ en cas qe Abbe aliene, &c., par Westmestre Secunde, le bref est done countre⁶ Labbe.—*Thorpe*. Tiel bref ne recoverir ne serra jammes meyntenu bon.⁷—*Grene*. Statut doune ceo bref par expresse⁸ parole vers partie et nul altre.—*Thorpe*. Quei vers soun heir?—*Grene*. Nanyl;⁹ et mesqe le bref ne gise fersqe vers partie niad pas meschief, qar, freschement apres la perde, par journes acountes¹⁰ il purra porter son bref, et, sil soit a meschief, cest sa defaute qe nest pas a charger.—*Thorpe*. Purchaceour nest pas a meschief, qar il poet aver sa garrantie, ou sil nest pas garranti¹¹ il poet come assigne pleder et meyntener le droit sur recoverir [si avant come en cas a la comune ley qe assigne pledra en barre par mene temps sur recoverir]¹² son feffour; et auxi par

A.D. 1342.

Statut⁽¹⁾:Quare
deforciat.

" cum eodem viro suo, seisinam
" suam de feodo simplici con-
" tinuavit tota vita ipsius Matthæi,
" et similiter post mortem ejusdem
" Matthæi, quousque idem Willel-
" mus recuperavit versus eam præ-
" dicta tenementa per defaultam.
" Et hoc paratus est verificare,
" unde petit judicium."

Alice replied "quod ipsa, tem-
" pore quo amisit prædicta tene-
" menta ad sectam prædicti Willelmi
" per defaultam, &c., tenuit tene-
" menta prædicta in dotem tantum,
" et non in feodo simplici. Issue
was joined thereon.

¹ The words *Bref sur Statut* are
from Harl. alone.

² 25,184, xvj^o.

³ sur is omitted from 25,184 and
Harl.

⁴ nyent is omitted from 25,184.

⁵ come is from Harl. alone.

⁶ T., vers.

⁷ 25,184, Quei vers son succes-
sour? instead of Tiel bref ne re-
coverir ne serra jammes meyntenu
bon.

⁸ 25,184, espresse.

⁹ Nanyl is from Harl. alone.

¹⁰ T. and Harl., acomptes.

¹¹ garranti is omitted from Harl.

¹² The words between brackets
are omitted from Harl.

No. 72.

A.D. 1342. recovery by his feoffor; and also a *Cui in vita* is by the words of the Statute¹ given for the wife, on her husband's losing, only against the person who was party; nevertheless one maintains a writ and action in the *post*, &c.; so in the case put.—*Grene*. The other writ is at common law, although the action is given by Statute.—*Pulteney*. Suppose our feoffor had recovered by writ of Right, we could not tender suit and deraignment; therefore we should then lose our land without answer.—They were adjourned.

Avowry.
The beginning
above, in
Hilary
term in the
same
year.

(72.) § *W. Thorpe*. Whereas he supposes that Thomas Bethum, great-great-grandfather of Ralph, on whom they have avowed, enfeoffed Hawise the ancestor of Katharine wife of John Haverington in tail in the time of King Henry, to hold of him and his heirs, paying two marks for cornage, we tell you that he enfeoffed Hawise in fee simple without any condition; and they have admitted the seisin had through his hand, which can only be understood as that of a very tenant; judgment, and we pray our damages.—*Moubray*. We do not admit the feoffment to have been as he says; but you see plainly how, according to his own statement, if such a feoffment there was, which we do not admit, it could only be to hold of the donor, unless there were express mention as to holding of the chief lord; and payment of annual services does not estrange a lord from his tenant; judgment whether the law puts us to make answer to that which he has said.—*W. Thorpe*. By the manner of your pleading it is necessary that we be agreed that it is so: and then I say that when there are lord, mesne, and tenant, if the lord receive the services by the hand of

¹ 13 Edw. 1. (Westm. 2) c. 3.

No. 72.

paroule de statut nest pas *Cui in vita* done pur la A.D. 1342.
femme, sour la perde son baroun, forsqe vers celui qe
fut partie; nepurquant homme meintient le bref et
accion en le *post*, &c.; *sic in proposito*.—*Grene*. Autre
bref est a la comune ley coment qe laccion soit¹ done
par Statut.—*Pult*. Jeo pose qe nostre feoffour ust
recoveri par bref de Dreit; nous ne purroms pas tendre
suite et dereine; donques perdroms nostre terre saunz
respons.—*Adjornantur*.

(72.)² § *W.⁴ Thorpe*. La ou il suppose qe Thomas Avowere.
Bethom,⁵ tresaiel Rauf, sur qi ils ount⁶ avowe, feffa *Princi-*
Hawise auncestre Katherine la femme Johan Havering- *pium*
tone en la taille en temps le Roi Henre, a tener de *supra*
luy et ses heirs, fesaunt deux marcz de cornage, nous *Hilarii*
vous dioms qil feffa Hawise en fee simple saunz nule *eodem*
condicion; et ils ount conu la seisine eu parmy sa mayn, *anno* (³)
qe ne poet estre entendu forsqe de verrei tenant, &c.;
jugement, et prioms nos damages.⁷—*Moubray*. Nous
ne conissons pas le feffement come il parle; mes vous
veiez bien coment, de son dit demene, si tiel feffement y
fut, qe nous ne conissons pas, ceo ne poet estre forsqe a
tener del donour, si expresse mencion⁸ ne fuit a tener
de chief seigneur;⁹ et paiement des services annuels
nestraunge pas seigneur de son tenant; jugement si a
ceo qil dit ley nous mette a respoudre.—*W.⁴ Thorpe*.
Il covient par manere de vostre plee qe nous soioms a
un qil est issi; et donques die jeo qe la ou il ad seigneur,
mene, et tenant, si le seigneur receit les services par la

¹ T., est.

² From T., 25,184, and Harl. This is a continuation of Y.B. H., 16 Edw. III., N^o. 9. (John de Haverington, the younger, knight, v. William Coucy and William Fowler).

³ The marginal note in 25,184 is simply Coucy.

⁴ W. is from 25,184 alone.

⁵ Bethom is omitted from Harl.

⁶ T. and Harl., nous avoms, instead of ils ount.

⁷ T. and Harl., Retourn, instead of nos damages.

⁸ 25,184, expressement, instead of expresse mencion.

⁹ Harl., seignurage.

No. 72.

A.D. 1342. the tenant, he is estranged from the mesne, and the mesne by that attornment of the tenant will escape from the liability to acquit of services.—SHARDELOWE. Never by attornment in respect of annual services.—*Thorpe*. Attornment in respect of cornage, which is in lieu of scutage, and draws to itself homage and fealty, is stronger than attornment in respect of other annual services.—SHARDELOWE. The mesne is not estranged by payment of scutage by the tenant.—Then *Moubray* tendered the averment, in maintenance of his avowry, that Thomas Bethum enfeoffed Hawise in fee tail, to hold of him and of his heirs, as is supposed by the avowry.—*Pole*. He enfeoffed her in fee simple and not in fee tail to hold of him and his heirs.—*Stouford*. By that averment you do not falsify the avowry, unless you traverse the tenancy, to wit, by saying that he enfeoffed to hold of the chief lord; for fee simple and fee tail can not make an issue, nor is your statement that she was not enfeoffed to hold of the donor a traverse to it, for that does not prove the tenancy to be other than what we suppose; for if it be not said of whom one is to hold, the law makes the feoffee to be the tenant of the donor.—*W. Thorpe*. We tell you that Thomas Bethum enfeoffed Hawise his daughter in fee simple without any condition, which Hawise attorned to Richard de Lyndesey the chief lord, &c., and the son of Hawise attorned to Richard in respect of the homage and other services, and the ter-tenants afterwards in like manner to Richard and Christiana de Lyndesey whose estate you have; and we demand judgment of the avowry.—*R. Thorpe*. The law does not put us to answer as to the receipt of the services and the homage, for he shall not be admitted to plead as to that, but only as to that

No. 72.

mayn le tenant, il est estraunge del mene, et le mene¹ A.D. 1342. par cel attournement del tenant estourtera del acquittance.—SCHARD. Jammes par attournement des services annuels.²—*Thorpe*. Cest plus fort attournement de cornage³ qest en lieu descuage et attreit a luy homage et fealte⁴ qe nest des autres services annuels.—SCHARD. Par paiement descuage fait par de tenant nes pas le mene estraunge.—Puis *Moubray* tendist daverir⁵, en meynテナunce de savowere, qe Thomas Bethom enfeffa H. en fee taille, a tener de luy et [de ses heirs, come est suppose par lavowere.—*Pole*. Il luy feffa en fee simple, en noun pas en fee taille, a tener de luy et de ses heirs.]⁶—*Stouford*. Par cel averement vous fauxes pas lavowere, si vous ne traversez la tenance, saver qil feffa a tener du chief seignur; qar fee simple et fee taille⁷ ne poent pas faire issue, ne ceo qe vous parlez qil ne fut pas feffe a tener del donour nest pas traverse a lui,⁸ qar ceo ne prove pas⁹ la tenance altre qe nous supposoms; qar saunz dire de qi tener, ley fait le feffe tenant al donour.—*W.*¹⁰ *Thorpe*. Nous vous dioms qe Thomas Bethom feffa Hawise sa fille en fee simple saunz nule condicion, la quele Hawise attourna a Richard de Lyndeseye chief seignur, &c., et le fitz H. attourna a R. de homage et autres services, et les terres tenantz puis en cea a Richard et Christiene de L. qi estat vous avez; et demandoms jugement del avowere.—*R. Thorpe*. A la resceite de ces services¹¹ et homage ley ne nous met pas a respoundre, qar il ne serra a ceo resceu, mes a ceo qe nous avoms plede pur

¹ The words et le mene are omitted from Harl.

² Harl., anules.

³ 25, 184, coronage.

⁴ Harl., foialte.

⁵ daverir is from Harl. alone.

⁶ The words between brackets are omitted from 25, 184.

⁷ taille is omitted from 25, 184.

⁸ The words a lui are from Harl. alone.

⁹ T., prove, instead of ne prove pas.

¹⁰ W. is from Harl. alone.

¹¹ The words services et are from T. alone.

No. 73.

'A.D. 1342. which we have pleaded to maintain our avowry, to wit, the feoffment to hold of the donor, &c.—*Moubray*. He enfeoffed her in fee tail as we have said, ready, &c.—And the other side said on the contrary, that he enfeoffed her in fee simple, as they had alleged.

Conclu-
sion of the
Covenant
for the
Prior of
Wartre.
See the
beginning
in Easter
Term last.

(73.) § *Thorpe*. We have taken exception on the ground that their plea is self-contradictory, and requires separate judgments; one is that this can not be called a record, because it was made without warrant and not before those who could record, inasmuch as their power ceased after judgment; another is that, even though this be a record, and though execution might have been had against the person who was then Abbot, that does not bind or charge a successor, because there was no assent by the Convent; and this duplicity and contradiction we can not pass, no more can the Court. But to prove this and to proceed to the effect of their statement, that whatever was done after judgment was vain and void, by reason whereof they say also that there was no plea as to those matters, I say, Sir, that in the ancient time one used to levy fines by writ of Covenant in respect of one acre of land, and by a subsequent *præterea* in the fine, of a manor, and that in another county, before Justices in Eyre, and yet their warrant extended only to the county in which they were itinerant; and nevertheless such fines are put in execution; and also, at this day, on a writ of Covenant in respect of land, a fine will be levied of rent after the fine is levied of the land, and yet the writ will not mention the rent. And also in a *Præcipe quod reddat*, with the consent of the parties

No. 73.

meyntener nostre avowere, saver le feffement a tener A.D. 1342.
del donour, &c.—*Moubray*. Il feffa en fee taille come
nous avoms dit; prest, &c.—*Et alii, e contra*, en fee
simple, come ils disoient.

(73.)¹ § *Thorpe*. Nous avoms challenge qe² lour *Residuum*
plee est contrariaunt en lui mesme, et demande divers del Cove-
jugements; un est qe ceo ne poet estre dit recorde, pur nant pur
ceo qe ceo ne fut pas fait par garrant ne devant ceux qe le Priour
poaint recorder, pur taunt qe apres jugement lour poair de Wartre.
cessa; un altre est qe, tut soit ceo recorde, et execucion *Vide prin-*
se freit³ vers celui qe adonques fuit Abbe, ceo ne lie ne⁴ *cipium*
charge pas successeur,⁵ pur ceo qil ny ad pas assent du *Pascha*
Covent; quele⁶ doublesse et contrariouseite nous ne poms⁷ *ultimo.*
passer, ne Court nient plus. Mes pur prover et aler al
effecte de ceo qil parlont⁸ qe quanqe fut fait apres juge-
ment fut veyn et veyde,⁹ et pur ceo dient ils auxi¹⁰ qil
ny avoit¹¹ pas plee de celes choses, jeo die, Sire, qe en
auncien temps homme soleit lever fynes par bref de
Covenant dune acre de terre, et¹² par un *prætere*¹³ apres
en la fyn dun maner, et en altre counte, devant Justices
erraunz, et si sestendi lour garrant forsqe el counte ou
ils furent errauntz, ne mye par ceo tiels fynes sont mys
en execucion; et auxi, huy ceo jour, sur bref de Covenant
de terre, fyn se levera de rente apres ceo qe la fyne est
leve de la terre, et si ne ferra pas le bref mencion de
rente. Et auxi en *præcipe quod reddat*, par assent des

¹ From T. and Harl. This is a continuation of the case Y.B., Easter, 16 Edw. III., N°. 15. (The Prior of Wartre v. the Abbot of Fountains). The record is printed as Appendix A. to Y.B., 16 Edw. III., Part I.

² qe is from Harl. alone.

³ Harl., *executorieu*, instead of *execucion* se freit.

⁴ The words lie ne are omitted from Harl.

⁵ Harl., suite.

⁶ Harl., qar.

⁷ Harl., poames.

⁸ T., prent.

⁹ T., sottte.

¹⁰ auxi is omitted from Harl.

¹¹ Harl., avyent.

¹² et is omitted from Harl.

¹³ Harl., *præterita*.

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A.D. 1342. and by leave of the Court, a fine will be levied in the same manner; and fines used to be levied before the Justices without writ by consent of the parties, and execution used to be granted upon deeds enrolled; and therefore it does not prove that the matter is not of record because the Justices had not then a plea thereof pending; and if there be error he can have his suit to redress it.—SHARDELOWE. If anything erroneous was done before Justices who had power to give judgment and to do other things which Justices are competent to do, suit might be made to reverse it; but the act of those who had no power is not reversible.—*Blaykeston*. I can have a recognisance in this Court for 1,000*l.* and execution thereon, and yet it is not made by writ or by warrant.—SHARDELOWE. That is for a debt. But if in this Court you grant me an annual rent of 20*s.* for my life, shall I have execution for that? (as meaning to say that he would not).—*Notton*. Justices of the Bench and in Eyre have larger power to admit fines, and that without warrant, than Justices of Assise, for the former have and will have cognisance of all pleas, and the latter only of Assises. And when, in our case, judgment had been given on the nonsuit, the Justices of Assise became afterwards only ordinary persons and not Justices.—*Thorpe*. In the ancient time fines used to be levied in Assises of Novel Disseisin, Mort d'Ancestor and *Jurata utrum*, and also in respect of tenements in other counties by the clause *præterea*, or *postea convenit*; and also one would render a manor and take another manor in exchange when there was no plea thereof, and all such ancient matters affirmed by record are executory as long as they stand in force, although they were not so formal as such matters now

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parties et conge de Court, fyne se levera par mesme la manere ; et homme soleit devant Justices lever fyn saunz bref par assent des parties, et hors des faitz enrroules graunter execucion ; par quei ceo ne prove pas qe la chose nest pas de recorde, pur ceo qe Justices navoient pas plee pendant de cele adonques ; et si erreur y soit il poet aver sa suite del redresser.—SCHARD. Si chose erroigne fut fait¹ devant Justices qe avoint poair de jugement rendre et² altre chose faire qe as Justices attient, ceo serroit a suyr a reverser ; mes le fait ces³ qe nul poair navoient nest pas reversable.—*Blaik.* Javeray un reconisaunce ceinz de mil livres et execucion, et si nest ceo pas par bref ne par garrant fait.—SCHARD. Ceo est de dette ; mes si vous moi grauntez ceinz un annuel rente de *xxs.* pur ma vie, avera jeo execucion de cele ? *quasi diceret non.*—*Nottone.* Justices du Baunk et de Eire ount plus large poair de reseceivre fynes, et sanz garrant, qe Justices as Assises, qar les uns ont et averont la conisaunce de touz plees,⁴ et les altres soulement as Assises. Et quant, en nostre cas, le jugement fut rendu sur la nounsuyte ils⁵ furent apres forsque gent du poeple,⁶ et noun pas Justices.⁷—*Thorpe*⁸ En auncien temps fynes en Assises de Novele Disseisine, Mortdancestre, et Jure⁹ de *Utrum*, soleynt estre leves, et auxi des tenementz en altres countes par la clause¹⁰ de *præterea* ou *postea convenit* ; et auxi homme¹¹ rendreit un maner et prendreit un¹² altre maner¹³ en eschaunge dount plee ne fut pas, et toutes tiels auncienes choses affermes par recorde sount executoriues¹⁴ tanqe eles

¹ T., soit, instead of fut fait.² Harl., ou.³ Harl., ses.⁴ Harl., pledz.⁵ Harl., els.⁶ Harl., people.⁷ The words et noun pas Justices are omitted from Harl.⁸ Harl. *Moubray.*⁹ Harl., Jurers.¹⁰ Harl., cause.¹¹ Harl., un homme.¹² un is omitted from T.¹³ maner is omitted from Harl.¹⁴ T., execuciuns.

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A.D. 1342. are, because, when so many things have been further discussed, they are put on the roll and in order.—*Moubray, ad idem.* When the Prior withdrew from the action, and afterwards an agreement was made, that withdrawal can be understood only as being in consideration of the covenant which followed, so that there was *quid pro quo*.—*Derworthy.* The covenant was in respect of a matter altogether different from the plaint in the assise; for the plaint was *de octava parte appruamenti in solo vasti de E.*, and the covenant was *de octava parte soli seu vasti appruati et appruandi in E.*; and thus although it were law that a fine could have been levied of the same thing by consent of the parties, it is plain that of any thing else this can not be called a fine or of record.—*Grene.* The covenant was in effect made in respect of the same thing in respect of which the plaint was made and more; and such fines were usual.—*Pulteney* By a deed made *in pais* by an Abbot, without the consent of his Convent, his successor will not be charged; and the reason is that he has no way to aid himself except by means of an answer to that effect; but if an Abbot render a manor by fine, his successor will be charged and barred by the fine as long as it stands in force; and the reason is that if it were otherwise than good he could reverse it; so here, and especially when the matter is before you for the purpose of being put in execution.—*Seton.* Two things are to be looked to: first, whether this be a record, and, even if this be a record, it has afterwards to be seen whether this shall charge the successor. Now this cannot be of record, for it was not made before Justices nor in respect of a matter in respect of which there was a plea before them. But suppose that

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esteent en lour¹ force, tut ne furent els² [pas si fourmel A.D. 1342.
come sount ore, pur ceo qe de taunt qe choses debatuz
pluis sount eles]³ mys en roule et ordre.—*Moubray, ad
idem.* Quant le Priour se reitreit, et puis accorde⁴ se
prist, cele retrere ne put estre entendu forsqe pur le
covenant ensuaunt, issint *quid pro quo*.—*Der.* Le
covenant fuit tut daltre chose qe la pleynte en assise;
qar la pleynte fut *de octava parte appruamenti in solo*⁵
vasti de E., et le covenant fut *de octava parte soli seu*⁶
vasti appruati et appruandi in E., issint qe tut fut il ley
qe de mesme la chose par assent des parties fyne pout
avoir este leve, *constat* qe dautre chose ceo ne poet estre
dit fyne ne de⁷ recorde.—*Grene.* Le covenant en effect
se prist de mesme la chose dount la pleinte fut fait, et
de plus; et⁸ tiels fynes furent usuels.—*Pult.* Par fait
fait en pais dun Abbe saunz assent soun Covent soun
successour⁹ ne serra mye charge; et la resoun est pur
ceo qil nad altre chymyn¹⁰ par quel soi eider forsqe par
voie de respons; mes si Abbe rende par fyne un maner,
soun successour⁹ serra charge et barre par la fyne tanqe
ele esteet en sa force; et la resoun est pur ceo qe si ele
soit altre qe bon il la poet reverser; auxi ycy,¹¹ et no-
mement quant la chose est devant vous pur mettre en
execucion.—*Setone.* Deux choses sount a veer: primes
si ceo soit recorde, et, tut soit ceo recorde, apres fait a
veer sil chargera successour. Ore de recorde ne poet ceo
estre, qar ceo ne fut pas fait devant Justices, ne de chose
dount plee fut¹² devant eux.¹³ Mes mettez qe ceo fut de

¹ T., sa.² T., ils.³ The words between brackets are omitted from Harl.⁴ Harl., recorde.⁵ T., loco.⁶ According to the record, et; the word is omitted from T.⁷ de is omitted from Harl.⁸ et is omitted from Harl.⁹ Harl., suyte.¹⁰ Harl., chemyn.¹¹ Harl., issi.¹² T., feust.¹³ eux is omitted from T.

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A.D. 1342. it was of record, still it was not a matter which will charge certain soil, nor by which the right vested or was divested between the parties, as would be the case in a fine of land, but was only a thing which charged the person; and it is certain that a predecessor can never charge his successor by his deed without the assent of the Convent.—SHARSHULLE. It is true that by this suit land can not be recovered, but the covenant, in case it have the effect of charging in law according to the purport of the words which are contained in the exemplification, gives restoration of damages to the party in case the covenant regarding the land be not performed; and an ancestor can bind his heir to his covenant if the heir have anything by descent; and even though it be the fact that the Abbot has not his estate through his predecessor but by election, still he is in possession of the estate which his predecessor had; and a predecessor can charge his successor by recognisance; and I once saw a recognisance for debt, which was made before Justices of Assise, and it was caused to come into the Chancery, but whether it was put in execution or not I do not know.—STONORE. If the truth were such that the Prior was disseised, as was supposed by his plaint, and the Abbot, because he did not wish to be convicted a disseisor, by their common assent entered into this covenant with him, would it not be right that the covenant should be performed? And what if the Abbot had by fine rendered that in respect of which the covenant is supposed to be broken? What recovery would his successor have?—Derworthy. A good writ *Sine Assensu Capituli*, and he would recover.—Thorpe. I have seen a fine in which the tenements were acknowledged to be the right of the tenant as those which he had of the gift of the cognisor,

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recorde, unquore ne fut ceo pas chose qe chargera certain A.D. 1342. soil ne par quel dreit vesti ne devesti entre¹ parties, com serroit fyne de terre, mes fut soulement chose qe chargea² la persone; *et certum est* qe predecessour ne chargera jammes soun successour³ par soun fait saunz assent del Covent.—SCHAR. Il est verite qe par⁴ ceste suyte terre ne purra⁵ estre recoveri, mes le covenant, en cas qil soit chargeaunt en ley solonc purport des paroles qe sont contenuz en lexemplificacion, doune restoraunce des damages a partie en cas qe le covenant de la terre ne soit pas parfourny;⁶ et launcestre poet lier⁷ soun heir a soun covenant sil eit par descente; et tut soit il issint qe Labbe nad pas soun estat par soun predecessour mes⁸ par eleccion, unquore est il einz en lestat qe soun predecessour avoit; et predecessour par reconisance poet charger soun successour;⁹ et jeo vy¹⁰ une foitz une reconisance de dette, qe fut fait devant Justices as Assises prendre, et fut fait vener en Chauncellerie, mes si ele fut mys en execucion ou nyent jeo ne say.—STON. Si la verite fut tiel qe lePriour fut disseisi, come suppose fut par sa pleynte, et Labbe, pur ceo qil ne voleit estre atteint disseisour, par lour comune assent luy fist ceo covenant, serroit il pas resoun qe le covenant fut tenuz? Et quei¹¹ si Labbe par fyne ust rendu ceo dount le covenant est suppose estre effreynt?¹² Quel recoverer averoit soun successour?⁹—Der. Bon bref *Sine Assensu Capituli*, et recovereit.—Thorpe. Jay view fyne qe les tenementz furent conuz estre le dreit le tenant come ceo qil avoit du doun celuy qe conissast,¹³ a

¹ Harl., en.² T., chargera.³ Harl., suite.⁴ T., a.⁵ T. poet.⁶ Harl., fourni.⁷ Harl., charger.⁸ T., einz.⁹ Harl., suite.¹⁰ Harl., vie.¹¹ Harl., crey.¹² Harl., refreynt.¹³ Harl. countast.

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A.D. 1342. to have and to hold to him and the heirs of his body, etc., with remainder over, and with a saving afterwards of the reversion, and the fine was put in execution, and yet it was not according to form.—*Seton*. What is said about fines is not similar to our matter. Whether fines be levied with warrant or without warrant, when they are levied with the assent of the parties, and not to the prejudice of any one except the parties, even though they are exeeutory, that is not very unreasonable; but where the matter is to the damage of a third person, as in our case, it is not reasonable that it should be executed.—*STONORE to Thorpe*. I should like to know your intention with regard to this recovery on the covenant, whether you think to deraign the covenant for all time, future time as well as past time.—*Thorpe*. Only to have damages for breach of the covenant in time past.—*SHARSHULLE*. Although it may be that you do not seek to recover soil or freehold by this suit in a direct way, nevertheless you seek to do so in an indirect way, for in respect of the time past, you think to have damages to the value of the land, which is the equivalent of a recovery of the soil, and also to have to the value in respect of future time, if he do not make you an estate in the soil. Then it is to be seen whether by the covenant of the predecessor which is binding only on his own person, any right passed, or shall be put in execution.—*Thorpe*. The covenant which charges him and his successors shall be executed, and so would a fine of a manor if it were admitted.—*SHARDELOWE*. One has never seen an Abbot render by fine; and even if he do so, it will not be put in execution in the time of his successor.—*HILLARY*. One has seen an Abbot render by fine; and if he do so it

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aver et tener a luy et les heirs de soun corps, &c., et A.D. 1342. outre par remeindre, et salver apres reversion, et la fyne fut mys en execucion, et sil ne fut pas fourmel.—*Setone*. Ceo qe homme parle des fynes nest pas semblable a nostre matere. Le quel fynes soient [levez par garrant ou saunz garrant, la ou eles sount del]¹ assent² des parties leves, et en nuly prejudicé si des³ parties noun, mes qe eles sount executoriues,⁴ nest pas molt cointre resoun; mes la ou la chose est en grevance de la terce persone, come en nostre cas, nest pas resoun qe ceo soit execut.—*STON.* a *Thorpe*. Jeo voudray saver⁵ vostre entente sur ceste recoverir de covenant, le quel vous bietz derener⁶ le covenant de tut temps, auxi bien de temps a vener come de temps⁷ passe.—*Thorpe*. Soulement daver⁸ damages pur lenfreyndre del covenant de temps passe.—*SCHAR*. Tut soit il issint qe vous ne voillez pas recoverir soil ne frauntenement par ceste suite *per viam rectam*, nepurquant vous vollez *per viam obliquam*, qar de temps passe vous bietz aver damages a la value de la terre, qe countrevaut⁹ le recoverir del soil, et auxi del temps avener, sil ne vous face estat en le soil, daver a la value. Donques fait il a veer si par covenant del predecessour qe lie forsque en la personalite¹⁰ si dreit passera ou serra mys en execucion.—*Thorpe*. Le covenant qe charge luy et ses successors serra execut, et si serroit fyne dun manere si ele fut resceu.—*SCHAR*. Homme nad pas view qe Abbe ad rendu par fyne; et tut fet¹¹ il, en temps soun successor ceo ne serra pas mys en execucion.—*HILL*. Homme ad view qe Abbe ad

¹ The words between brackets are omitted from Harl.

² Harl., dassent.

³ T. en les.

⁴ T., excepcionez.

⁵ Harl., sauver.

⁶ Harl., desrener.

⁷ The words de temps are omitted from T.

⁸ daver is omitted from Harl.

⁹ Harl., contrevait.

¹⁰ T., personalte.

¹¹ T., fuit.

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A.D. 1342. will be put in execution; and it is certain that if an Abbot make a recognisance it will be levied on his successor; why then shall not a covenant equally have the effect of charging?—*Seton*. An Abbot can make a recognisance for a debt when he has the administration of goods; and because it purports to have the effect of a judgment it will be put in execution; but a covenant is not a matter adjudged, but a thing to be done, to which the party will have an answer. And, if a predecessor aliene by fine, the successor will recover by a writ of Entry, and I think that he will prevent the execution of the fine.—*HILLARY*. He will not prevent the execution, nor will he recover.—*Notton*. This matter, although it were of record, is only as a deed made *in pais* and enrolled, which cannot be denied, but that does not give execution, &c.

Dower. (74.) § Dower. The tenant vouched the husband's heir whose lands are in the wardship of a husband and his wife, the present demandants by this writ; but the tenant did not say in vouching that the demandants are the same persons.—*R. Thorpe*. The husband and his wife are demandants, and it is for the

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rendu par fyne; et sil face ceo serra mys en execucion; A.D. 1342. *et certum est* qe, si Abbe face reconisance, qe ceo serra leve de son successour; pur quei adonques ne serra pas covenant auxi chargeaunt?—*Setone*. Reconisance de dette poet Abbe faire quant il ad administracion des biens; et pur ceo qe ceo purport effect de jugement ceo serra mys en execucion; mes covenant nest pas chose ajuge,¹ mes chose affaire, a quei partie avera respons.² Et si predecessour aliene par fyne, le successour recovers par bref dentre, et jeo quide qil destourbera execucion. —*HILL*. Il destoubera pas execucion, ne recovers. —*Nottone*. Ceste chose, mesqe ceo fuit de recorde, nest forsque come fait fait³ en pays enroule, qe ne poet estre dedit, mes ceo ne doune pas execucion,⁴ &c.⁵

(74.)⁶ § Dewere. Le tenant voucha leir le baroun qi *Dowere*. terres sount, en la garde le baroun et sa femme, qe *[Fitz. Voucher, 88.]* demandent ore par⁷ ceo bref; [mes le tenant ne dit pas issint en vouchant]⁸ [qe les demandantz sount mesmes les persones.]⁹—*R. Thorpe*. Le baroun et sa femme

¹ Harl., adjuge.

² Harl., rienz.

³ The second "fait" is omitted from T.

⁴ Harl., nest pas executorie, instead of ne doune pas execucion.

⁵ It appears by the record that the Prior had judgment to recover his damages, and award of execution by *Elegit*, but that there was a writ of Error into the King's Bench in the 36th year of the reign. See Y.B. 16 Edw. III., Part I., p. 290.

⁶ From T., 25,184, and Harl., but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 506. It there appears that the action was brought by Henry Romyn and Joan his wife against

Robert "de Insula" (De Lisle) in respect of a third part of the manor of Mershton (probably Merston, Isle of Wight) "quam clamant in "dotem ipsius Johanne versus "eum et Aliciam uxorem ejus." Alice was admitted to defend her right on her husband's default. She then vouched John son and heir of John son and heir of Baldwin "del Idle," of Gatecomb, "qui "est infra etatem, et cujus corpus "et terre sunt in custodia quorundam Henrici Romyn et Johanne uxoris ejus, &c."

⁷ 25,184, en.

⁸ The words between brackets are omitted from Harl.

⁹ The words between brackets are omitted from 25,184 and Harl.

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A.D. 1342. guardian to have an answer and not for the heir, so that what would be for the tenant a cause of warranty would in this case be an answer in bar of the action; judgment whether he ought to be admitted to this voucher.—*Pole*. It is not so; for you are guardian in chivalry, in which case the wife can not take *de la plus belle* as in case of socage.—*R. Thorpe*. The possession of lands descended through an ancestor is the reason which maintains this voucher, and the law purports in this case that, when the heir of the husband is vouched, the tenant do retain and the demandant do recover against the heir who is vouched, and this would be in respect of the land which we hold in wardship as you suppose; wherefore upon such matter as that by which you will maintain the voucher, you will preclude us from an action. Besides, we can not be parties to ourselves.—*Pole*. You must be parties, for you can not endow yourselves of land holden in chivalry without judgment.—*Thorpe*. No more can a woman endow herself of socage without judgment.—*KELSHULLE*. We have often seen such a voucher.—*Thorpe*. The heir shall never be vouched but on account of the possession in wardship of the fee simple of which the woman would have her dower.—*SHARDELOWE*. Yes, he would be; for even if the heir had nothing except in fee tail, still he would be vouched; for otherwise, if an inheritance in fee simple afterwards descended to him, the tenant would lose the advantage of having to the value.—*Thorpe*. The heir shall be vouched as out of wardship, as well in Dower as in any other case, where nothing has descended to him in fee simple; for the reason why he is vouched, when in wardship, is that the loss will not fall on the guardian unless he be party. And besides, one has not

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sount demandauntz, et al gardein est daver respouns A.D. 1343. et noun pas al heir, issi qe ceo qe serroit pur luy cause de garrantie serroit en ceo cas respouns¹ en barre daccion; jugement si a ceo voucher deive estre² resceu. —*Pole*. Il nest par issint; qar vous estes gardein en chivalrie,³ en quel cas femme ne poet pas prendre de plus beal⁴ come en cas de socage. —*R. Thorpe*. La possession des terres descenduz par launcestre⁵ est la resoun qe meyntient ceo voucher, et ley voet en ceo cas, quant leir le baroun est vouche, qe le tenant reteigne et la demandante recovere vers leir qest vouche, et ceo serra de la terre qe nous tenoms en garde a ceo qe vous supposez; par quei sur tiele matere come vous meyn-tendrez le voucher vous nous forclorez daccion. Ovesqe ceo, nous ne poames estre partie a nous mesmes. —*Pole*. Il covient qe vous soiez partie, qar vous ne poez dower vous mesmes de chivalrie saunz agard. —*Thorpe*. Nient plus purra femme dower lui mesme de socage, saunz jugement.⁶ —*Kels*. Nous avoms sovent view tiel voucher. —*Thorpe*. Le heir ne serra jammes vouche mes pur la possession en garde de fee simple de quel la femme averoit soun dower. —*SCHARD*. Si serroit; qar mes qe le heir navoit rien⁷ forsqe en fee taille, unquore il serroit vouche; qar autrement si⁸ heritage lui descent apres de fee simple le tenant perdroit⁹ lavantage de aver a la value.¹⁰ —*Thorpe*. Le heir serra auxi bien en Dower come en altre cas vouche come hors de garde, la ou rien luy¹¹ est descendu en fee simple; qar la cause pur quei il est vouche en garde est pur ceo qe la perde cherra pas sur le gardeyn sil ne fut partie. Et ovesqe ceo, homme nad

¹ respouns is omitted from T.² T., serrez, instead of deive estre.³ The words en chivalrie are omitted from 25, 184.⁴ 25, 184, bel.⁵ The words par launcestre are omitted from T.⁶ T., agarde.⁷ Harl., rienz ou.⁸ T., mesqe.⁹ Harl., perledra.¹⁰ The words a la value are omitted from 25, 184.¹¹ Harl., lieu.

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A.D. 1342: seen an infant vouched when in the wardship of the demandant alone, but if the infant were in the wardship of others and of the demandant also, then the demandant would be party to herself, because all the guardians would be made parties.—HILLARY. The heir who is in wardship will be vouched as well when he has only a fee tail as if he had fee simple, and that will come by way of answer, if he has not a fee simple, in order to escape execution; and also it can not be understood that the wife has the wardship of the heir of her husband unless it be by purchase from another, in which case the loss would fall on the other.—*Thorpe*. The husband might hold of his wife, so that she might have the wardship by reason of seignory.—And afterwards to deliver the Court, *Thorpe* alleged that others who are not named in the voucher, hold part of the lands in wardship; judgment of the voucher.—*Pole*. We tell you that he whom you suppose to be guardian, and who is not named in the voucher, has nothing except as your bailiff; ready, &c.—And the other side said the contrary:

Note:
Waste

(75.) § Note that on a writ of Waste which an Abbot brought, the inquest was taken by default and passed for the plaintiff; and the Court would not go to judgment on the verdict before it had enquired as to collusion.

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pas vieu qe lenfaunt ad este vouche en la garde la A.D. 1342.
demandante seulement, mes si lenfaunt fut en garde des
altres et de la demandante ovesqe, la serroit la deman-
dante partie a lui mesme, pur ceo qe tous les gardeins
serrount faitz parties.—HILL.¹ Le heir serra auxi bien
vouche en garde quant il nad forsqe fee taille come sil ust
fee simple, et ceo vendra par voie de respons, sil neit² pas
fee simple, pur estourtre³ dexecucion; et auxi il ne poet
estre entendu qe la femme eit garde del heir soun baroun
sil ne soit par purchace daltre; en quel cas la perde
serroit sur altre.—*Thorpe*. Le baroun poet tener de sa
femme, issint poet ele aver garde par resoun de seignurie.
—Et puis pur deliverer, *Thorpe* alleggea qe altres tenent
partie des terres en garde qe ne sount pas nomes en le
voucher; jugement del voucher.—*Pole*. Nous vous
dioms qe celuy qe vous supposez gardein, [et qe nest pas
nome en le voucher],⁴ nad rienz fors come vostre baillif;
prest, &c.—*Et alii e contra*.⁵

(75.)⁶ § *Nota* qen bref de Wast qun Abbe porta *Nota*:
lenqueste pris par defaute qe⁸ passa pur le pleintif; et *Waste*.⁷
Court sur verdit ne voleit⁹ aler a jugement avant qe ele [Fitz.
Collusion,
21.]

¹ T., SCHAR.² Harl., nest.³ T., estourter; Harl. estourire.⁴ The words between brackets are omitted from 25,184 and Harl.⁵ According to the record the voucher was counterpleaded because "quidam Johannes le Warner " habet in custodia de terris et " tenementis prædicti heredis manerium de Hulesby Bynneportes " brigge, de quo Johanne custode, " &c., nullum. fecit mentionem in " vocari prædicto." Alice replied " quod prædictus Johannes nihil " habet in prædicto manerio nisi tñ " ballivus prædictorum Henrici et " Johannæ," and thereon issue was

joined. Alice afterwards made default, and judgment was given for the demandants to recover seisin.

⁶ From T., 25,184, and Harl. The case may possibly be that of the Abbess of Northampton v. John Petherne, of Northampton "pelter," and Alice his wife. In that case, at any rate, there was a Writ of Enquiry of Waste upon the default of the tenants, and judgment was given for the Abbess, but not execution until after the finding of the jury on the *Quale jus*.⁷ *Nota* is omitted from Harl., and *Waste* from T. and 25,184.⁸ T., et.⁹ Harl., veot.

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A.D. 1342.

Dower.

Note: the
vouchee,
at the
Sequatur
suo periculo
was
receivable
by attorney
to
warrant.

(76.) § *Seton*, as above,¹ prayed seisin because the tenant had not sued; and although the vouchee be willing to warrant *gratis*, he shall not do so unless he appear in his own person.—SHARDELOWE. At the first day one admits the vouchee to warrant if he will, but not at the second day if the writ be not served; but at the *Sequatur suo periculo*, on account of the mischief, he is admitted if he come in his own person; but now he appears by attorney, and therefore it must be considered.—HILLARY. He has been received in such case when he came of his own accord, and therefore, demandant, consider whether you will be delayed.—*Seton*. Where was he made attorney for the vouchee?—And, because he had not a warrant, seisin was adjudged.

Note.

(77.) § Note that in an Assise of Darrein Presentment when the defendant made default on the first day, a resummons issued. The like in Mort d'Ancestor and *Jurata utrum*.

Quare
impedit.

(78.) § John Cogsale brought a *Quare impedit* against John de Henyngham, and counted that one A. was seised of the advowson, and presented C. his clerk, after whose death the church is now void, and that

¹ The report appears to be a continuation of No. 47.

Nos. 76-78.

(76.)¹ § *Setone, ut supra*, pria seisine pur ceo qil nad pas suy ; et tut voille le vouche garrantir de gree il ne fra pas sil ne fut en propre persone.—SCHARD. Homme al primer jour resceite le vouche de garrantir sil voet, mes al [secunde jour nynt, si le bref ne soit servy ; mes al]² *Sequatar suo periculo*, pur le meschief, homme le resceite³ sil veigne⁴ en propre persone ; mes ore est il par attourne, et pur ceo fait a veer.—HILL. Homme lad resceu en tiel cas ou il vint de gree, et pur ceo veiez si vous, demandaunt, voillez estre delaie.—*Setone*. Ou fait attourne pur le vouche?—Et, pur ceo qil navoit pas garrant, seisine fuit agarde.

A.D. 1342.

Dowere.
Nota :
le voche
al *Sequatar suo periculo*
par
attourne
fuyt receivable
de garrantir (?).

(77.)¹ § *Nota* qen assise de darrein⁶ presentement, quant le defendant fist defaute al primer jour qe resomons issit. *Simile* en Mortdauncestre et *Jure de utrum*.

Nota :
[Fitz.
Resomons,
20.]

(78.)⁷ § Johan Cogsale porta *Quare impedit* vers Johan de Henyngham, et counta qun A. fut seisi del avoweson et presenta C. son clerk, apres qi mort leglise

Quare impedit.
[Fitz.
Quare impedit,
67.]

¹ From T., 25,184, and Harl.

² The words of the marginal note, after Dowere are from T. alone, from which MS. the word Dowere is omitted.

³ The words between brackets are omitted from 25,184.

⁴ Harl., resceut.

⁵ T., vigne ; 25,184, viengne.

⁶ T. dreyn.

⁷ From T., 25,184, and Harl. (until otherwise stated), but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III. B. 382, d. It there appears that the action was brought by John de Coggeshale, knight, against John de Hevenyngham, knight, in re-

spect of a presentation to the church of Ashingdon (Essex). The declaration was "quod quidam Robertus de Bayouse fuit seisisus de advocacione prædictæ ecclesiæ, qui ad eandem præsentavit quendam Robertum de Mortone . . . tempore Edwardi Regis avi domini Regis nunc, post cuius mortem prædicta ecclesia modo vacat. Et de ipso Roberto de Bayouse descendit advocatio prædicta cuidam Ricardo ut filio et heredi, &c., qui quidem Ricardus de ipsa advocacione et de aliis tenementis feoffavit ipsum Johannem de Coggeshale," &c.

No. 78.

A.D. 1342. A.¹ enfeoffed us.—*Pulteney*. We tell you that one A.² was seised of the manor of B.,³ to which the advowson is appendant, and presented, and from him the right descended to one B.,² who was under age, and in wardship, and during that time A., from whom you take your title, presented by usurpation, &c., and that B., at his full age, enfeoffed us of the manor with the appurtenances, so we are seised, and it belongs to us to present.—*Thorpe*. You see plainly how he makes himself a stranger purchaser, in whose mouth such a plea does not lie; and he has admitted the last presentation; judgment, &c.—*Pulteney*. Then is it so?—*Thorpe*. You can not allege it, because you have nothing in the advowson; for if such usurpation as you allege was made, which we do not admit, the infant was out of possession until it was deraigned either by suit or by presentation at a later time, and, while there is in existence such an usurpation not defeated by execution nor in any other manner by plea, if a writ of Right had to be brought, it would be brought against the usurper who last presented.—*Pulteney*. If a writ of Right were brought against the usurper in such case, and the infant were to present, pending his writ, the writ of Right would abate by default of the tenants.—*SHARSHULLE*. It would not, if the infant had not recovered the presentation by judgment.—*Pulteney*. I think that a writ of Right would lie against the infant, notwithstanding the usurpation, and not against the usurper; for in law he has no possession; and this is supposed by the Statute³ which gives to the heir an action by Darrein Presentment, &c.—*Thorpe*. The Statute proves the infant to be out of possession, for avoidance of a presentation

¹ For the real names and full statement of the facts, see p. 539, note 7.

² For the real names, &c., see p. 547, note 5.

³ 13 Edw. I. (West. 2) c. 5.

No. 78.

est ore voide [le quel A. nous enfeffa].¹—*Pult.* Nous A.D. 1342. vous dioms qun A. fut seisi del maner de B. [a qi lavoweson est appendant, et presenta, de qi le dreit² descendi tanqe a un B., qe fut deinz age, et en garde, a quel temps A.],³ de qi vous pernez yostre title, presenta, purpernant, &c., le quel B. a son pleyn age nous enfeffa del⁴ maner ove les appurtenances, issint sumes nous seisi, et a nous appent a presenter.⁵—*Thorpe.* Vous veiez bien coment il se fait estraunge purchaceour, en qi bouche tiel plee ne gist pas; et il ad conu le darreyn presentement; jugement, &c.—*Pult.* Donques est il issi?—*Thorpe.* Vous le poez pas allegger, qar vous navez rien en lavoweson; qar si tiele purprise come vous alleggez fut fait, quel nous ne conissoms pas, lenfaunt fut hors de possession tanqe ceo fut derene ou par suyte ou par presentement de puisne temps, et, esteaunt une tiel purprise par execucion⁶ ne en altre manere par plee defait, si bref de dreit fut⁷ a porter, il serroit porte vers le purpernour qe derein presenta.—*Pult.* Si bref de dreit fut⁸ porte vers le purpernour en tiel cas, et lenfaunt, pendaunt soun bref, presenta, le bref de dreit abatereit par defaute des tenantz.—*SCHAR.* Noun freit pas, si lenfaunt nust recoveri le presentement par jugement.—*Pult.* Jeo crey qe bref de dreit girreit devers lenfaunt, *non obstante* la purprise, et noun pas vers le purpernour; qar en ley il nad nule possession; et ceo suppose lestatut qe doune accion al heir par darrein presentement, &c.—*Thorpe.* Statut prove lenfaunt estre hors de possession, qar voidaunce de presentement fait par purprise nest

¹ The words between brackets are omitted from Harl.

² The words le dreit are omitted from 25, 184.

³ The words between brackets are omitted from T.

⁴ Harl., el, instead of nous enfeffa del.

⁵ Harl., entra, quel nous enfeffa, instead of the words from issint to presenter.

⁶ The words par execucion are omitted from Harl.

⁷ T., serroit.

⁸ T., soit.

No. 78.

A.D. 1342. made by usurpation is not given to the heir before he comes of age; therefore during his nonage it is to be supposed by the Statute that he is out of possession, and the person who had once before presented would always present during the nonage of the heir; and consequently the infant is out of possession, and consequently by his feoffment before he has afterwards presented, nothing can pass in respect of the advowson.—*Notton*. The person who usurps a right has it not, and the possession is taken from him expressly by the Statute. And when the infant at his full age divests himself, his assignee will have the same advantage as he would have, or otherwise he would be disinherited; and the infant, when he has divested himself of the gross to which the advowson is appendant, can not afterwards have an action.—*Moubray*. If an usurpation be effected on my father and on my grandfather while they are under age, I can, on a *Quare Impedit*, avoid both presentations; nevertheless, if I have to bring a writ of Right, I can not count of their seisin in case they did not present, but I must go to the seisin of some ancestor above, who presented before; wherefore it does not prove, because a presentation made by usurpation on an infant under age is voidable by way of execution, that he is therefore in possession.—*Pole*. No wonder that he shall count of a seisin above; for one can not count of the seisin of any other than of those who presented; but it does not follow from that that a person other than he who presented is not in possession.—*Thorpe*.

No. 78.

pas done al heir avaunt ceo qil vendra a son age; A.D. 1342. *ergo* duraunt son noun age [est a supposer par statut qil est hors de possession, et celui qe une foitz devant avoit presente tut foitz duraunt soun nounage]¹ presentereit; et *per consequens* lenfaunt hors de² possession, *per consequens* par son feffement, avant qil ust presente apres, rien poet passer en droit del avoweson. *Nottone*. Celuy qe purprent droit nad il pas, et possession lui est tollet par estatut expressement. Et quant lenfaunt a son pleyn age se demist, son assigne³ avera mesme lavantage qil averoit, ou autrement il serroit desherite; et lenfaunt, quant il sad demis del gros a quei lavoweson est appendaunt, ne poet apres aver accion.—*Moubray*. Si purprise soit fait sour mon pere et sour mon aiel tanqils sount⁴ deinz age, a un *Quare impedit* jeo purroy voider lun presentement et lautre; ne purquant, si jeo soi a porter bref de droit, jeo ne puisse pas counter de lour seisine [en cas qils presentent pas],⁵ [mes covynt aler a la seisine de asqun auncestre⁶ par amount]⁷ [qe presenta a devant];⁸ [par quei ceo ne prove pas]⁹ pur ceo qe presentement par¹⁰ purprise sour enfaunt deinz age est voidable par voie dexecucion, qe par taunt il est en possession.—*Pole*. *Non est mirum* qil countera de la seisine par amont;¹¹ qar homme ne poet counter daltri seisine qe de ces qe presenterent; mes de ceo nensuit il pas qautre ne soit en possession

¹ The words between brackets are here omitted from Harl.

² After the word *de* are inserted in Harl. the words possession et qe celui qun foitz agoit devant presente et toute foitz durrant soun noun age presenteroit, et *per consequens* lenfant hors de.

³ T., assigne.

⁴ T., tanqe il soit.

⁵ The words between brackets are omitted from Harl.

⁶ T., altre.

⁷ The words between brackets are omitted from 25, 184.

⁸ The words between brackets are omitted from 25, 184 and Harl.

⁹ The words between brackets are omitted from 25, 184.

¹⁰ *par* is omitted from T. and Harl.

¹¹ T. and 25, 184, daltri seisine, instead of *de la seisine par amont*.

No. 78.

A.D. 1342. They have not denied the presentation, and he does not show that the presentation which they call an usurpation was made since the Statute; judgment, and we pray a writ to the Bishop.—*Grene*. That plea is double, and requires separate judgments, wherewith neither the Court nor the party can be charged; for one abiding in judgment is that an assignee generally shall not avoid any usurpation made on his feoffor; the other is that, although he could avoid an usurpation as well as a privy could, still it was made, perhaps, at such a time that it is not voidable either by a privy or a stranger.—*Thorpe*. We say that you have not said that the presentation was made since the Statute, and that is true; and you have not denied that it was made before; and the law gives us an advantage from that, and also from the rest of the matter which you yourself give for plea. And in a Formedon in the Reverter, if you allege in bar that the tenant in tail had issue and aliened, shall not I have by plea an advantage in that you have admitted the gift, and also in that you do not allege that the alienation was before the Statute?¹ So in the case put.—*Pole*. In your example it is not a bar unless it be so pleaded; but in this case it is sufficient to avoid the presentation to allege generally an usurpation without saying whether it was since the Statute or before; and, if the law were different in the two cases, that should come from you.—*SHARSHULLE*. Is not a presentation by usurpation before the Statute as voidable as one since?—*Thorpe*. I do not know.—*STONORE*. When he alleges an usurpation, we understand that it was made since the Statute.—*Pole*. By the manner of his replication he supposes a defect in our answer, because we have not said that the usurpation was effected since the

¹ 13 Edw. I. (Westm. 2) c. 1 (*De Donis Conditionalibus*).

No. 78.

qe celuy qe presenta.¹—*Thorpe*. Ils nount pas dedit le A.D. 1342
 presentement, ne il moustre pas cel presentement quel
 ils diount purprise estre² fait puis lestatut; jugement,
 et prioms bref al Evesqe.—*Grene*. Ceo pleee est double,
 et demande divers jugements, de quei Court ne partie
 ne poet estre charge; qar une demure est qe assigne
 generalment ne voidra nule purprise fait sur soun
 feffour; altre est, tut purra il voider purprise si bien
 come prive freit, unquore cest³ par cas a⁴ tiel temps qe
 ceo nest pas voidable par prive nestraunge.—*Thorpe*.
 Nous dioms qe vous navez pas dit qe le presentement
 se fist puis lestatut, et ceo est verite; et vous lavez pas
 dedit estre fait devant; et de cel ley nous doune avaun-
 tage, et auxi del remenant de la matere qe vous donez
 mesmes pur pleee. Et en Fourme de doun en le *reverti*
 si vous alleggez en barre qe le tenant en la taille avoit
 issue et aliena, navera jeo pas par pleee avantage de ceo
 qe vous avez conu le doun, et auxi de ceo qe vous
 nalleggez pas lalienacion avant statut? *sic in proposito*.
 —*Pole*. En vostre semblaunce il nest pas barre sil ne
 soit issi dit; mes en ceo cas il⁵ suffit de voider presente-
 ment dallegger generalment purprise saunz dire puis
 statut ou avaunt; et sil fuit divers ley⁶ en lun cas et
 lautre, ceo⁷ vendreit de vous.—*SCHAR*. Nest pas⁸ pre-
 sentement⁹ purprise devant lestatut auxi voidable come
 puis?—*Thorpe*. Jeo ne say.—*STON*. Quant il allegge
 purprise, nous entendoms qe ele fuit fait puis statut.—
Pole. Par la manere de sa replicacion il suppose de-
 faute en nostre respons, pur ceo qe nous avoms pas
 dit la purprise estre fait puis statut, issint qe pur ceo

¹ The words qe celuy qe presenta
 are omitted from Harl.

² The reports of this term end
 here in Harl.

³ 25,184, nest.

⁴ 25,184, au.

⁵ 25,184, sil.

⁶ 25,184, luy.

⁷ T., et ceo.

⁸ pas is omitted from T.

⁹ presentement is omitted from
 25,184.

No. 78.

A.D. 1842. Statute, so that, because we have not expressly denied it, it shall be understood against us that it was before the Statute, and thus that he can abide judgment whether an usurpation made before the Statute is voidable or not, and also, upon the other point, that we who are strangers can not allege any usurpation either before the Statute or since.—*Thorpe*. I say nothing else but that which the record proves that you yourself have said; and that does not harm you.—*STONORE*. For what purpose, then, shall it be entered? for if you will say that the presentation was made before the Statute, he can traverse that, and have an issue thereby as to the whole, but when you will not say so, but abide judgment in law on another point, we understand the presentation to have been made when it was voidable by law, and that is only since the Statute.—*Thorpe*. We pray that our plea be entered, or otherwise that he abide judgment on the objection that our replication is double.—They were adjourned.—Afterwards in Hilary term, when the arguments were rehearsed, the opinion of the Court was that a purchaser shall not avoid an usurpation on his feoffor, because nothing vested in him through his purchase.

No. 78.

qe nous avoms pas expressement dedit qil serra entendu, A.D. 1848.
 encountre nous¹ qe ceo fuit avant statut, et issi gettre
 en jugement si purprise fait² avant statut soit voidable
 ou noun, et auxi lautre point qe nous qe sumes estraunge
 ne poms allegger nule purprise, fuit ceo avaunt statut
 ou apres.—*Thorpe*. Jeo dye nule altre chose³ forsque
 ceo qe le recorde prove qe vous mesmes avez dit; et ceo
 ne vous greve pas.—*STON*. A quei faire serra il donques
 entre? qar si vous voillez dire qe le presentement fuit
 fait avant statut, ceo poet il traverser, et aver issue par
 la a [tout, mes, quant vous voletz pas, mes demures sur
 altre point en ley, nous entendoms le presentement estre
 quant]⁴ il est voidable par la ley, et cest puis le statut
 seulement.—*Thorpe*. Nous prioms qe nostre plee soit
 entre, ou autrement qil demoerge en jugement de ceo qe
 nostre replicacion est double.—*Adjornantur*.—*Postea*
termino Hilarii, ou les resouns furent reherces, et
 opinion de Court fuit qe purchaceour ne voidra pas pur-
 prise sur soun feffour, pur ceo qe rien luy est vestu par
 my soun purchace.⁵

¹ nous is omitted from 25,184.

² 25,184, soit fait.

³ chose is omitted from 25,184.

⁴ The words between brackets are omitted from T.

⁵ The pleadings, &c., subsequent to the declaration are in the roll as follows:—"Et Johannes de Heve-nyngham . . . dicit quod quidam Thomas Maunsel fuit seisitus de uno mesuagio et decem et octo acris terræ cum pertinentiis in Assyndone ad quæ ad vocatio ecclesiæ prædictæ pertinet, qui ad eandem ecclesiam præsentavit quandam Petrum de Assyndone . . . tempore domini Henrici Regis proavi domini Regis nunc. Et de ipso Thoma descendunt prædicta tenementa

" ad quæ, &c., cuidam Philippo ut filio et heredi, &c. Et de ipso Philippo descenderunt prædicta tenementa ad quæ, &c., cuidam Johanni ut filio et heredi, &c., qui quidem Johannes fuit infra ætatem, cujus corpus et prædicta tenementa ad quæ, &c., fuerunt in custodia ejusdam Johanne Perot, quæ quidem Johanna concessit custodiam prædictorum tenementorum ad quæ, &c., quibusdam Johanni le Moue et Mabillæ quæ fuit uxor prædicti Philippi Maunsel usque ad plenam ætatem prædicti Johannis, reservata sibi advocacione ecclesiæ prædictæ, qui quidem Johannes postea plenæ ætatis existens feoffavit de prædictis tenementis

No. 79.

A. D. 1342.
Note.

(79.) § Note that one was vouched as being under age; the demandant said that he was of full age; and a writ issued to cause him to come; and at the *Pluries* Grand Distress the tenant was told to sue at his peril, &c.

" ad quæ, &c., quosdam Philippum
" Perdrix et Deseriam uxorem ejus
" tenendis sibi et heredibus ipsius
" Philippi. Et de ipso Philippo
" descenderunt prædicta tenementa
" ad quæ, &c., cuidam Aliciæ ut
" filiæ et heredi, &c., et de ipsa
" Alicia . . . cuidam Philippo
" ut filio et heredi, &c., et de ipso
" Philippo . . . isti Johanni
" versus quem, &c., ut filio et
" heredi, &c. Et dicit quod præ-
" sentatio prædicta ad ecclesiam
" prædictam prædicto Roberto de
" Mortone, per prædictum Ro-
" bertum de Bayouse facta, usur-
" pata fuit super prædictum Jo-
" hannem filium Philippi filii
" Thomæ cujus statum idem Jo-
" hannes de Hevenyngham modo
" habet in prædictis tenementis ad
" quæ, &c., durante minore ætate
" prædicti Johannis filii Philippi
" filii Thomæ. Et sic dicit quod
" ea ratione quod ipse seiscitus est
" de prædictis tenementis ad quæ
" &c., ad ipsum Johannem de
" Hevenyngham et non ad præ-
" dictum Johannem de Coggeshale

" ad prædictam ecclesiam pertinet
" præsentare, &c. Et hoc paratus
" est verificare. Et petit judi-
" cium, &c.

" Et Johannes de Coggeshale,
" non cognoscendo advocationem
" prædictam ad prædicta tenementa
" pertinere, seu prædictum Thomam
" de eisdem tenementis seiscitum
" fuisse, nec prædictum Petrum ad
" præsentationem prædicti Thomæ
" ad ecclesiam prædictam admis-
" sum fuisse, nec etiam prædictum
" Johannem, cujus statum præ-
" dictus Johannes de Hevenyngham
" in prædictis tenementis
" asserit se habere, tempore ad-
" missionis prædicti Roberti de
" Mortone ad præsentationem præ-
" dicti Roberti de Bayouse ad
" ecclesiam prædictam infra ætatem
" extitisse, dicit quod idem Jo-
" hannes de Hevenyngham ad hoc
" quod allegat præsentationem præ-
" dictam præfato Roberto de Mor-
" tone per præfatum Robertum de
" Bayouse factum usurpatam fuisse
" admitti non debet, quia dicit quod
" hujusmodi exceptio in evacua-

No. 79.

(79.)¹ § *Nota* qun fuit vouche come deinz age; le demandant dit qe de pleyn age; et bref issit de luy faire vener; et a la graunde destresse *sicut pluries* fuit dit al tenant qil suyereit² a soun peril, &c.

A.D. 1342.

Nota.

[Fitz.]

Voucher,
89.]

" tionem presentationum, &c., data
" est per statutum inde provisum,
" et in certo limitata pro his super
" quos hujusmodi usurpatio facta
" fuerit et pro eorum heredibus
" tantum, et non pro aliquibus sibi
" extraneis, et ex quo idem Jo-
" hannes de Hevenyngham ex-
" presse cognovit presentationem
" predictam unde idem Johannes
" de Coggeshale in narrando sump-
" sit titulum presentandi, &c.,
" et etiam se cognovit omnino
" extraneum prefato Johanni super
" quem idem Johannes de Heve-
" nyngham supponit presenta-
" tionem predictam usurpatam
" esse, videlicet heredem ipsius
" assignati cui hujusmodi exceptio
" competere non debet, &c., petit
" iudicium et breve Episcopo.

" Et Johannes de Hevenyngham
" dicit quod per predictum sta-
" tutum subvenitur his super quos
" hujusmodi usurpationes factæ
" fuerint ad eorum possessionem
" de advocationibus in quibus jus
" habeant salvandum, et maxime
" heredibus quorum custodes per
" eorum minorem ætatem tempore
" hujusmodi usurpationum habue-
" rint in custodia sua terras seu
" tenementa hujusmodi heredum
" ad quæ hujusmodi advocationes
" pertineant, quæ ad seisinam eorun-
" dem heredum cum ad plenam
" ætatem pervenerint deveniant Et
" ex quo predictus Johannes de
" Coggeshale non dedit advoca-
" tionem predictam ad predicta te-

" nementa pertinere, nec predictum
" Thomam de eisdem tenementis
" seisitum fuisse, nec predictum
" Petrum ad presentationem præ-
" dicti Thomæ ad predictam ec-
" clesiam admissum fuisse, nec
" predictum Johannem cujus sta-
" tum idem Johannes de Hevenyn-
" gham habet in predictis tenementis
" ad quæ, &c., infra ætatem extitisse
" tempore quo predictus Robertus
" de Mortone ad presentationem
" predicti Roberti de Bayouse ad-
" missus fuit, seu tenementa præ-
" dicta ad quæ, &c., in custodia
" predicti Johannis custodis, &c.,
" tunc temporis extitisse, et tene-
" menta illa in seisinâ prefati
" Johannis cujus statum, &c.,
" postea plenæ ætatis existentis
" devenisse, nec etiam quin idem
" Johannes de Hevenyngham de
" tenementis predictis ad quæ,
" &c., ad præsens seisitus existat
" in forma predicta, petit iudicium
" et breve Episcopo, &c."

A day was then given to the parties "de audiendo iudicio suo." Several adjournments afterwards followed. At length "idem Johannes de Hevenyngham, omisso placito suo predicto, non potest dedicere quin ad predictum Johannem de Coggeshale ad predictam eccle- siam pertinet presentare." Judgment was accordingly given for the plaintiff, damages being remitted.

¹ From T., and Harl. In Harl. the case is placed before No. 78.

² T., siwereit.

Nos. 80, 81.

A.D. 1342.
Writ of
Waste.

(80.) § Henry Gysors sued a writ of Waste against a tenant by the curtesy of England of his inheritance; and so, on the default of the tenant, the Sheriff had enquired of the waste, and upon verdict, *Thorpe*, for the plaintiff, prayed judgment.—*Gaynesford*. You can not go to judgment, for before the plaintiff in such a case should have a writ to enquire, he should assign what was wasted, and how the tenant holds in his right; and this he did not do; wherefore the writ which issued to the Sheriff issued without warrant.—*Thorpe*. The party has lost the exception; and as to the Court I say that, in case the defendant does not come, there is no necessity to declare; and, if there be need, I am sufficiently in time to do it now.—SHARSHULLE. There is another defect, for the Sheriff has not taken the inquisition at the place wasted.—*Thorpe*. The Sheriff has returned *quod accessit ad loca et boscos vastata et cepit inquisitionem*, &c.—SHARSHULLE. There is more: *prout patet in inquisitione huic brevi consueta*. And then the words of the inquisition are *Inquisitio capta apud Hamme*, which is not one of the places, nor in any of the villis where, &c.—*Thorpe*. Still it is good; for when you have thus much *quod Vicecomes accessit ad loca*, &c., and he and those of the inquest saw the waste, after which it appears that the inquisition was taken, that is sufficient.—SHARSHULLE. No; certainly he should take the inquisition on the spot; and, because he has not done so, the Sheriff is in mercy; and sue you another inquest.

Writ of
Annuity.

(81.) § The Prior of Bermondsey brought a writ of

Nos. 80, 81.

(80.)¹ § Henre³ Gysors suist bref³ de Waste vers un tenant par la ley Dengleterre de soun heritage; et⁴ issint, par la defaute le defendaunt, le Vicounte ad enquis del waste, et sur verdit, *Thorpe*, pur le pleintif, pria jugement.—*Gayn*. Vous ne poez aler a jugement, qar devaunt qe pleintif en tiel cas avereit bref denquere, il assignereit quoi fuit waste, et coment le tenant tient en son droit; et ceo ne fist il pas; pur quei le bref qe iâsit a Vicounte issit saunz garrant.—*Thorpe*. Partie ad perdu chalenge; et quant a la Court, jeo die, en cas qe le defendaunt ne veigne pas, il ne bosoigne pas a desclarer; et, sil bosoigne, jeo le puis faire a ore assetz par temps.—*SCHAR*. Il y ad autre defaute, qar le Vicounte nad pris lenqueste al lieu waste.—*Thorpe*. Le Vicounte ad retorne *quod accessit ad loca et boscos vastata et cepit inquisitionem, &c.*—*SCHAR*. Il y ad plus: *prout patet in inquisitione huic [brevi] consuata*. Et donques voet lonqueste *Inquisitio capta apud Hamme* qest nul des lieux, ne en nule des villes ou, &c.—*Thorpe*. Unqore il est bien; qar qaunt vous avez taunt *quod Vicecomes accessit ad loca, &c.*, et luy et ces del enqueste virent le waste, apres quele pert⁵ qe lenqueste fuit pris, ceo suffit.—*SCHAR*. Nanil; certes⁶ il prendra lenqueste illoeqes; et pur ceo qil nad pas, le Vicounte en la mercy; et suez⁷ altre enqueste.

A.D. 1342.
Bref de
Wastre.
[Fitz.
Retourne
del Vi-
counte,
82.]

(81.)⁸ § Le Priour de Bermoundeseye porta bref

Bref de
Annuite.

¹ From T., and 25,184. The case appears to be in continuation of Y.B., Easter 16 Edw. III., N^o. 50.

² MSS. of Y.B. Johan. According to the record of Easter Term the action was brought by Henry Gysors and Joan his wife against William son of John de Groshurst.

³ T., par bref.

⁴ et is omitted from 25,184.

⁵ T., pare.

certes is omitted from T.

⁷ T. siwez.

⁸ From T., and 25,184, but corrected by the record *Placita de Banco*, Mich., 16 Edw. III., R^o. 595. It there appears that the action was brought by the Prior of Bermondsey against John Darry, parson of the church of "Fifhide" (Fyfield, in Essex), in respect of arrears of an annual rent of 40s.

No. 81.

A.D. 1342. Annuity against the parson of Fyfield, in respect of an annual rent of 40s., and said that he and his predecessors, from all time whereof memory is not, had been seised by the hand of the parson and his predecessors.—*Notton* defended, and imparled, and then said: It is supposed that they are, on both sides, people of Holy Church, and he does not show the source of the annuity by any lay contract, and we do not understand that you will take cognisance of it in this Court.—*Seton* made *profert* of a deed which purported that there was a dispute, when the church of Fyfield was void, about the advowson of the same church, between the Prior's predecessor and one B. who raised the dispute, when the predecessor by fine released his right in the advowson to B., for which B., with the consent of the Bishop, the Ordinary, &c., granted an annual rent of 40s. to be taken through the hand of the parson. And *Seton* made *profert* of the Bishop's deed of consent, and of a fine and concord which was levied in the time of King Henry the Second, in the Court of the Bishop of London, in the presence of the King's Treasurer, which fine was afterwards recorded in the Exchequer before the King's Justices, as well as the fact that the Treasurer witnessed the same grant.—*Notton* took exception first of all that they did not produce a deed by the parson, wherefore the Court could not take cognisance.—This exception was not allowed.—*Grens.* They have first of all in their count made a title by

No. 81.

dannuite vers la persone de Fifthide, dun annuel rente de xl. s., et dit qe lui et ses predecessours, de tut temps dount memoire nest, avoint este seisiz par la mayn la persone et ses predecessours.—*Nottone* defendi, et emparla, et puis dist qe suppose est qils sount¹ gentz de Seint Eglise, dune part et daltre, et il ne moustre pas sours² de ley contract, et nentendoms pas qe ceinz voillez conustre.³—*Setone* mist avant fait qe voleit come debat y avoit, en temps qe leglise de F. fuit voide, del avoweson de mesme leglise, entre le predecessour le Priour et un B. qe mist debat, ou le predecessour par fyn releassa son droit del avoweson a B., pur quele chose B. del assent Levesqe, de Lordiner, &c., graunta un annuel rente de xl.s. de prendre par la mayn la persone; et mist avant fet⁴ Levesqe [de lassent, et une fyn et pees qe fuit leve en temps le Roi H. le secunde, en la Court Levesqe de L.]⁵ en la presence le Tresorer le Roi, et quele fyn⁶ apres fuit⁷ recorde en lescheker devant les Justices le Roi,⁸ et qe le Tresorer tesmoigna mesme le graunt.—*Nottone* chalangea primes qil moustrerent pas fait la persone, par quei Court ne poet conustre.—*Non allocatur.*—*Grene.*

A.D. 1342.

[Fitz.
Annuit,
28 and 24;
Ayde,
132.]

¹ T., dit qils sount supposes, instead of dist qe suppose est qils sount.

² T., cours.

³ The words of the record are "non ostendit aliquem laicalem contractum, per quem cognitio hujusmodi placiti ad Curiam istam spectari [*sic*] debeat."

⁴ fet is omitted from T.

⁵ For the words between brackets there are substituted in T. only the words de L.

⁶ T., qe instead of quele fyn.

⁷ T., la fyne fuit.

⁸ The documents of which *Profert* was made were, according to the record, the following:—(1) A

scriptum (or deed) with witnesses, executed by "Haschulphus de Tavia," by which, *inter alia*, he granted in frankalmoin to St. Saviour's Monastery, Bermondsey, "in ecclesia de Fifthide xl. solidos annuos," the advowson of the church being released to him. (2) Letters of the Bishop of London witnessing his ratification, confirmation, and assent. (3) "Partem cujusdam finis dudum levati in "Curia domini Henrici Regis Secundi coram Justiciariis suis hic, "anno regni sui vicesimo nono, "inter partes predictas, de predicto "annuo redditu, que premissa tatur in hæc verba. Hæc est finalis

No. 81.

A.D. 1342. prescription, and afterwards they showed a deed and specialty for title, which is a different thing and contradictory to the title which they have taken for the cause of their action; judgment of the count. For in such a matter they ought to have framed their count on that specialty, because otherwise it would follow that by one title they would recover one annuity, and afterwards by the other title they would recover another annuity.—**HILLARY.** It is all one and pursuant; for prescription is their title, and the deed is only to show a commencement, because they are people of Holy Church, and otherwise there would have been no need of it; therefore it seems to us that it is a good title and not double; wherefore, answer.—*Derworthy.* We pray aid of the Bishop of London the Ordinary, and John de Hothum, and Ivetta his wife, the patrons, &c.—*Seton.* You ought not to have aid, because the withdrawing of the annuity is your own tort; and the reason for aid-prayer in such a case would be because you found your church un-

No. 81.

Ils ount fait title primes en counte par¹ prescripcion, et A.D. 1342. puis moustrent fait et especialte pur title, quel est altre et contrariaunt al title quel ils ount pris pur cause de lour accion; jugement de counte. Qar sur cele especialte en tiele matere ils duissent aver forme lour counte, ou autrement ensuereit qe par lune title il recovereint une annuite, et apres² pur lautre title il recovereint³ une altre annuite.—HILL. Tut est une⁴ et pursuaunt; qar la prescripcion est lour title, et le fait nest forsque de moustrer comencement, pur ceo qils sount gentz de Seinte Eglise, et autrement nust ceopas bosoigne; par quei nous semble qe cest bon title el noun pas double; par quei responez.—*Derworthi*. Nous prioms eide del Evesque de Loundres, Ordiner, et Johan de Hothom et Ivete sa femme, patrouns, &c.⁵—*Setone*. Eide ne devez aver, qar cest de vostre tort demene le⁶ sustrere; et cause deide priere en tiel cas serroit pur ceo qe vous

" concordia inter Bertramum Priorem Sancti Salvatoris de Bermundeseia et ejusdem loci Conventum et Hasculfum de Tavia, primitas prælocuta apud Sanctum Paulum Londoniarum in Curia domini Gilberti Londoniensis Episcopi, in præsentia Ricardi domini Regis Thesaurarii, et Nicholai Londoniensis Archidiaconi, et Magistri Ricardi de Storteforde, et postea, petitione utriusque partis, recordata, et præsentî scripto confirmata in Curia domini Regis apud Westmonasterium coram Ricardo Wintoniensi, et G. Eliensi, et J. Norwicensi Episcopis, et Ricardo domini Regis Thesaurario, et Godefrido de Luci, et Rogero filio Reinfridi, et Ranulfo de Geddinges, et aliis domini Regis Justiciariis, qui tunc affuerunt ad Scaccarium post Festum Sancti

" Michaelis xxix^o anno regni Regis Henrici Secundi, super præsentatione et advocacione ecclesie de Fifhyda, quæ vertebatur inter prædictum Priorem et Conventum memorati Monasterii de Bermundeseia et Hasculphum de Tavia." It is to the same effect as the other instruments. It is one the earliest and far the longest of the early fines, and the original is not among those known to be preserved in the Public Record Office.

¹ 25,184, &c.

² apres is omitted from 25,184.

³ The words il recovereint are from 25,184 alone.

⁴ une is omitted from 25,184.

⁵ According to the record aid was prayed and had of John son of John de Hotham, knight, and Ivette his wife, as patrons, and of Ralph, Bishop of London, as Ordinary.

⁶ T., de la.

No. 82.

A.D. 1842. charged; and by your payment the Church is charged for your time; and in a *Cessavit* brought against a parson on his own cesser he will not have aid.—*Derworthy*. By feigning a seisin by our hand, to which we can not have a traverse, you will not oust us from aid, especially since your action goes to a perpetuity.—*Thorpe*. If we allege a seisin by your hand, you will have an answer to that, as in case of Dower, in order to oust the tenant from view, the demandant will say that her husband died seised, and the tenant will say he did not; and on the one hand the pleading will be directed towards having the view, and on the other hand it will be to the action, if the finding be in favour of the demandant; and so also in this case issue may be taken on the aid-prayer.—*Grene*. Whatever he would plead in this case as a traverse of the seisin would be to the action; for the title by prescription would thereby be falsified, and that title as to the right shall not be tried for the parson without having aid; for it is not in this case as if a different title were made, and he made *profert* of a deed, &c.—HILLARY. Let him have the aid; for this imports a perpetual charge, to which he cannot be party.—And then by judgment he had the aid.¹

Dower.

(82.) § Dower.—*Grene* alleged that the tenant enfeoffed the husband on conditions, if which conditions were not fulfilled it should be lawful for him to re-

¹ The cases mentioned in the Harl. MS. (see p. 557, note 6), as being in agreement with this decision, appears to be Y. B., Hil. 18 Edw. III., No. 27, and Mich. 14 Edw. III., No. 94.

No. 82.

trevastes vostre eglise descharge ; et par vostre paiement A.D. 1342.

leglise est charge pur vostre temps ; et en *Cessavit* porte vers persone de soun cesser demene il navera pas eide.—

Derworthi. Par feindre de seisine par my nostre mayn, a quel nous ne poms aver travers, vous nous¹ ousterez pas de eide, et nomement quant vostre accion chiet en perpetuite.—*Thorpe*. Si nous feymes² seisine³ par my vostre mayn, vous averez a ceo respouns, come en cas de Dowere, pur ouster le tenant de viewe, la demandante dirra qe soun baroun morust seisi, el le tenant dirra qe noun ; et dune part ceo trenchera pur aver viewe, et daltre part al accion, si trove soit pur la demandante ; et auxi purra issue en ceo cas sur leide priere estre pris.—

Grene. Quei qe pledreit en ceo cas a travers de la seisine, ceo serroit al accion ; qar le title de prescripcion par taunt serroit fauxe, et cel title en droit ne serra pas trie⁴ pur⁵ la persone saunz avoir eide ; qar il nest pas en ceo cas come si altre title fuit fait, el il mist avant fait, &c.

—*HILL*. Eit leide ; qar ceo chiet en perpetuel charge, a⁶ quei il ne poet estre partie.—Et puis par agarde il avoit eide.⁶

(82.)⁷ § Dowere.—*Grene* alleggea coment le tenant Dowere. feffa le baroun la demandaunte par condiciouns queles si eles ne fuissent tenuz, qe lirreit a luy de reentrer ; et

¹ 25,184, ne.

² 25,184, sumes.

³ 25,184, seisi.

⁴ 25,184, partie.

⁵ 25,184, par.

⁶ According to the record the prayees in aid eventually made default, and John Darry then had to answer without them, when he said that the "Prior et prædecessores sui non fuerunt seisi per manus ipsius Johannis personæ et omnium personarum ejusdem ecclesiæ de Fyfyde præde-

"cessorum, &c., de prædicto annuo redditu, prout idem Prior nunc superius versus cum narravit." Issue was joined thereon. In 25,184 is added:—"Quare ergo. Con- cordat al grant del eide *supra* Hilarii xiiij., bref de Snyte de Molyn vers tenant a terme de vie, et *supra* M. xiiij., bref de Recto de Rationabilibus Divisis vers tenant a terme de vie. [See p. 556, note 1.] *Idem* in bref de Admen- suratione Pastura."

⁷ From T. and 25,184.

Nos. 83, 84.

A.D. 1342. enter; and he said that the conditions were broken, and therefore he re-entered;—and he made *profert* of a deed showing the particulars, &c.—judgment whether in respect of such an estate she ought to have dower.—*Pulteney*. He was seised so that he could endow us; ready, &c.—*SHARDELOWE*. You must say that he was seised so that he could endow you simply without any condition, or else admit the condition and abide judgment.—*Pulteney*. Then we tell you that, while our husband was seised, the tenant by this deed released all his right, with warranty; and thus the husband was seised so that he could endow, &c.—*Grene*. She does not deny that the estate of her husband was on condition, and she is a stranger to the deed; judgment.—And then he passed on, and said that at the time of the execution of the deed the tenant was under age; ready &c.—*Pulteney*. Of full age; ready &c.—And the other side said the contrary.—*Quare* whether, if it had been counterpleaded, the issue would have been admissible, since he took his plea in defeasance of the husband's estate by a feoffment of older date made on condition, which feoffment by the manner of his plea it should be understood that he made when of full age, since the feoffment alleged by himself was of earlier time, &c.

Wager of Law in Debt. (83.) § Note that after waging law on a writ of Debt, the defendant made default.—*SHARSHULLE* adjudged that the plaintiff should recover the debt and his damages according to his count.

Account. (84.) § Note that on a writ of Account, at the Exigent, the defendant came and pleaded to the inquest, and was held to mainprise, &c.; and the next day after he appeared by attorney appointed by writ; and because he did not come himself the inquest was awarded on his default, and *Capias*, &c. And note that there was a variance in the warrant of attorney, but this was not now pressed, &c.

Nos. 83, 84.

dit qe les condiciouns furent enfreintz, par quei il reentra ; A.D. 1342. et mist avant fait en certain, &c. ; jugement si de tiel¹ estat deive dower avoir.—*Pult.* Seisi qe dower nous poait ; prest, &c.—*SCHARD.* Vous dirrez qil fuit seisi si qe dower vous poait simplement sanz condicion, ou autrement conissez la condicioun et demores en jugement.—*Pult.* Donques vous dioms qe en la seisine nostre baroun par ceo fait il relessa tut soun droit ove garrantie ; et issi fuit il seisi qe dower, &c.—*Grene.* Ele² ne dedit pas lestat soun baroun par la condicion, et al fait ele² est estraunge ; jugement.—Et puis passa, et dit qe al temps de la confeccion il fuit deinz age ; prest, &c.—*Pult.* De pleyn age ; prest, &c.—*Et alii e contra.*—*Quere* sil ust este countreplede, si lissue ust este receivable, del hure qil prist soun plee en defesaunce del estat le baroun par son feffement fait deigne temps sur condicioun, quel par manere de soun plee serroit entendu qil le fist de plein age, de puis qe le feffement allegge par luy mesme fuit fait deigne temps, &c.

(83.)³ § *Nota* qe apres la ley gage en bref de Dette le defendant fist defaute.—*SCHAR.* agarda qe le pleintif recoverast la dette⁴ et les damages, solonc ceo qil avoit counte.

Ley gage
en dette.

(84.)³ § *Nota* qen bref dacompte, al exigende, le defendant vint et pleda al enqueste, [et fuit]⁵ par maynprise, &c. ; et al procheyn jour apres il apparust par attourne et par bref ; et pur ceo qil ne vint pas lenqueste fuit agarde par sa defaute, et *Capias*, &c. *Et nota* qe le garrant dattourne est desaccordaunt [mes ore ceo nest pas charge],⁵ &c.

Acompte.

¹ 25,184, cel.

² 25,184, II.

³ From T. and 25,184.

⁴ T., &c., instead of la dette.

⁵ The words between brackets are omitted from 25,184.

No. 85.

A.D. 1342.
Recordari
out of
Ancient
Demesne.

(85.) § The parol was removed out of a Court of Ancient Demesne by a *Recordari*, because the tenant claimed to hold the tenements at common law, and that he and all the ter-tenants had always held at common law.—*Thorpe*. This writ does not contain any cause for removal, nor any cause why this land should be in a different condition from the rest of the manor, such as a fine, or a charter of the King or of the lord, or any other jurisdiction affirmed in this Court; but it has only a general assertion which can not be a cause; wherefore we pray that the parol may return.—*SHARSHULLE*. The writ is good, and the cause assigned is usual, and one for which a parol has often been removed; but you may, if you will, say that if he do not specially show how this parcel is of a different condition from the rest, he shall not be admitted to maintain his cause in general terms; for if he claim by fine or charter he must show it.—*Thorpe*. We think that he can not maintain the cause by any other way than is supposed by the writ for removal. And how can one know without some special fact that one parcel is more frank-fee than the rest?—

Nos. 85.

(85.)¹ § Paroule remue hors de aunciene demene par *Recordari*, pur ceo qe le tenant clama tener les tenementz a la comune ley, et luy et tous les terres tenantz lavoient tenu de tut temps a la comune ley.—*Thorpe*. Ceo bref ne comprennent nule cause² de remuement, ne pur quei ceste terre serroit daltre condicion qe le remenant del maner, si come par fyne, par chartre du Roi ou seigneur, ou par altre jurisdiction afferme ceinz, mes en generalte, qe ne poet estre cause; pur quei nous prioms qe la paroule retourne.—*SCHAR*. Le bref est bon, et cele cause est usuel, et par quele paroule ad est sovent remue³; mes si vous voillez dire qe sil⁴ ne moustre en especial coment ceste parcele⁵ soit daltre condicion qe le remenant [qil ne serra pus resceu generalment de meyntener la cause; qar sil clayme pur fyne ou chartre il covynt del monstier]⁶—*Thorpe*. Nous entendoms qil ne poet meintener la cause par nule altre voie qe nest suppose par le remuement. Et coment poet homme savoir saunz especial fait qune

A.D. 1342.
Recordari
hors de
Anciene
Demene.
[Fitz.
Cause de
remover
plee, 14.]

¹ From T. and 25,184, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., B. 619. It there appears that the Little Writ of Right was brought by William Corbet of Chadeslegh, knight, against Richard le Deyare of Bromsgrove and John his son, in Roger de Mortimer's Court of Bromsgrove and King's Norton, and was removed thence by *Recordari facias loquelam* into the Common Bench. The ground for removal was that the tenants "clama-verunt tenere tenementa prædicta ad communem legem, ut eas quæ ipsi ac alii tenementa prædicta prius tenentes a tempore cujus contrarii memoria non existit semper hactenus tenuerunt, et non secundum consuetudinem manerii de Bromesgrove

"et Kyngesnortone, propter quod loquela illa in Curia prædicta secundum consuetudinem manerii prædicti terminari non debet, &c." In the Common Bench the tenants alleged as to a part of the tenements that they held of the King by a rent of 6s. per annum, and as to the whole that they held at common law, and not according to the custom of the manor.

² T., clause.

³ 25,184, remue hors.

⁴ 25,184, qil, instead of qe sil.

⁵ T., paroule.

⁶ For the words between brackets there are substituted in 25,184 the words entendoms qil ne poet meintener la cause, qar, sil clama par fyn ou par chartre il convendrait de le mustrer.

No. 85.

A.D. 1342. STONORE. He can do so if he has not been taxed or tallaged among others, &c.; and also, if he has done homage and paid scutage, &c., that gives him notice.—SHARSHULLE *ad idem*. Still, can he say that all the vill is frank-fee?—Thorpe. No; he can not contrary to his suit; and if it were so it would be expressed in his writ on the cause of the removal.—SHARSHULLE. The writ for removal will not mention any but the particular tenements.—Thorpe. Yes, it will. The removal may be on the ground that the tenements belong to a certain fee which is held as frank-fee.—Stouford. In Assise, if it be pleaded that the tenements are of a manor which is Ancient Demesne, the plaintiff will not be admitted to say that it has been always frank-fee without a special cause; no more here.—Pulteney. We will imparl.—And afterwards he showed that the tenant held of the King by knight-service and by the service of four marks by the year, so that he and the ter-tenants had always held at common law; judgment of the writ.—Thorpe. You do not deny that the manor is Ancient Demesne, so you can not say, unless it be proved by a specialty, that the parcel is of a different condition from the gross; and your statement that it is holden of the King does not prove that it is frank-fee, for Ancient Demesne can be holden of the King.—Pole. You see plainly how by his suit he supposes the tenements to be holden of Roger Mortimer, in whose Court the parol is, but pleadable by a different writ; judgment whether you shall be admitted to maintain that his land is frank-fee inasmuch as it is holden of the King.—This exception was not allowed.—SHARDELOWE. We must abate the writ or send back the parol, and we will not do that when he wishes to maintain that it is frank-fee.—Pole. It is Ancient Demesne and holden according to the custom of the manor of B., without this that it is frank-

No. 85.

parcele soit plus fraunk fee qe le remenant ?—STON. Si A.D. 1342. poet il sil neit pas este taxe ne taille entre altres, &c., et auxi sil eit fait homage et escuage, &c., ceo luy doune notice.—SCHAR, *ad idem*. Unquore, poet il dire qe tote la ville est fraunk fee ?—Thorpe. Nanyl ; ceo ne poet il pas coudre sa suite ; et sil fuit issint ceo serreit expresse en soun bref sur la cause del remuement.—SCHAR. Le remuement ne fra pas mencion forsque [de mesmes les tenementz.—Thorpe. Si fra. Le remuement poet estre pur ceo qil est de certeine fee qest tenu franchement.—Stouf. En Assise,]¹ si plede soit qe les tenementz sount dune manere qest aunciene demene, le pleintif ne serra pas resceu a dire qe de tut temps ceo ad este fraunk fee saunz cause especial ; ne nient plus ycy.—Pult. Nous emparleroma.—Et puis moustra qe le tenant tint du Roi par service de chivaler et de iiij. marcz par an, issint qe luy et les terres tenantz de tout temps ount tenu a la comune ley ; jugement du bref.—Thorpe. Vous ne dedites pas le maner estre aunciene demene, issi ne poez dire, sil ne fuit prove par especialte, la parcele daltre condicion qe le gros ; et ceo qe vous dites qe cest tenu du Roy, ceo ne prove pas qe cest fraunk fee, qar aunciene demene poet estre tenu du Roi.—Pole. Vous veiez bien coment par sa suyte il suppose les tenementz estre tenuz² de Roger Mortimer en qi Court la paroule, mes pledable par altre bref ; jugement si a meintener sa terre estre fraunk fee par taunt qe cest tenu de Roi serrez resceu.—Non allocatur.—SCHARD. Il nous covient abatre le bref ou remaunder la paroule, et ceo ne ferroms pas quant il la voet meintener fraunk fee.—Pole. Cest aunciene demene et tenu solonc usage du manoir de B., saunz ceo qil soit

¹ The words between brackets are omitted from T.

² T., la suppose estre tenu, in-

stead of suppose les tenementz estre tenuz.

No. 85.

A.D. 1342. fee in the manner they say.—*Grene*. As to three acres we will maintain that they are frank-fee in the manner which we have said ; ready, &c. And as to the rest you shall not be admitted to say that it is Ancient Demesne ; for heretofore in this Court William Dyer, our father, brought a writ of *Warrantia Chartæ* against Richard Corbet, your father, and deraigned warranty in respect of the same tenements by his deed—(and *Grene* made *profert* of the record *sub pede sigilli*)—so that your ancestor, whose heir you are, allowed the tenements to be frank-fee and pleadable in this Court ; for if they had been Ancient Demesne he might have abated the writ ; judgment.—*Thorpe*. If a man be impleaded in a Court of Ancient Demesne and deraign warranty in this Court, is the nature of the tenancy changed ? As meaning to say that it is not.—*Quære*.—SHARDELOWE. Do you think, if a tenant of Ancient Demesne be impleaded in the Court there, that he can not in this Court have a writ of *Warrantia Chartæ* ? It is certain that he can ; wherefore this record does not oust him from the averment.—*Thorpe*. He has refused the averment.—SHARDELOWE. No.—*Grene*. As to the whole, we will maintain the cause in our writ generally that it is frank-fee, and not Ancient Demesne.—STONORE. Will you not have the manner in which it is so entered ?—*Grene*. No, Sir.—STONORE. *Volenti non fit injuria* ; and since you wish to have it so by consent, we are willing.—And so to the country.

No. 85.

fraunk fee en¹ la manere come ils dient.²—*Grene.* A.D. 1342.

Quant a trois acres nous voloms meyntener qe fraunk fee en la manere come nous avoms dit; prest, &c. Et qaunt al remenant vous ne serrez pas resceu a dire qe ceo soit aunciene demene; qar altrefoit, en cest Court, William Dyer, nostre pere, porta bref de Garrantie de Chartre vers Richard Corbet, vostre pere, et dereyna garrantie de mesmes les tenementz par soun fait, et mist avaunt le recorde *sub pede sigilli*, issi qe vostre auncestre, qi heir vous estes, accepta les tenementz estre fraunk fee et ceinz pledables; qar sils ussent este aunciene demene il pout aver abatu le bref; jugement.—*Thorpe.* Si homme soit emplede³ en aunciene⁴ demene, [et en ceste Court derene garrantie, est la nature de la tenance change? *Quasi diceret non.*—*Quære.*—SCHARD. Quides vous, si un tenant danciene demene]⁵ soit emplede illoeqes, qil⁶ ne poet ceinz aver bref de Garrantie de Chartre? *Certum est quod sic*; par quei cel recorde ne luy ouste pas del averement.—*Thorpe.* Il ad refuse laverement.—SCHARD. Nanyl.—*Grene.* Qaunt a tout nous voloms meintener la cause en nostre bref generalment qe⁷ fraunk fee, et noun pas aunciene demene.—STON. Voillez nient qe la manere coment soit entre?—*Grene.* Sire, nanyl.—STON. *Volenti non fit injuria*; et puis qe par assent vous le voillez, nous le voloms.—*Et sic ad patriam.*

¹ 25, 184, par.

² Pole's pleading according to the roll was:—"Et Willelmus dicit "quod tenementa prædicta sunt "parcella manerii prædicti de antiquo dominio Coronæ domini "Regis, et placitari debent secundum consuetudinem manerii de Bromesgrove prædicti, et non placitabilia ad communem legem;" and it was upon this that issue was joined. A verdict was given at *Nisi prius* that part of the tene-

ments were frank-fee and pleadable at common law, and that the residue of them were Ancient Demesne and not pleadable at common law. Judgment was given for the tenants.

³ T., plede.

⁴ T., daunciene, instead of en aunciene.

⁵ The words between brackets are omitted from T.

⁶ T., il.

⁷ 25, 184, de.

No. 86.

A.D. 1342. (86.) § Replevin against three persons for a taking
Replevin. of several beasts in the vill of Ratcliffe.¹ Each made
a separate avowry as commoner of the vill of Kingston, in which vill the beasts were pasturing on their several common in a certain place, and they came to take them (the beasts having been driven to Ratcliffe), at the place where the taking is supposed for *damage feasant*, that is to say one for a certain

¹ See p. 567, note 1.

No. 86.

(86.)¹ § *Replegiari* dune prise, vers trois, en la ville de R., de plusours avers. Chesqun fist several avowere come comuners de la ville de Kynstone, en quele ville les avers puistrent lour several comune en certain lieu, et ils vindrent pur les prendre et ils defuerent en R. al lieu ou la prise est suppose, pur damage fesaunt, saver un dun

A.D. 1342.

Replegiari.
[Fitz.
Avowere,
94.]

¹ From T. and 25,184, but corrected by the record *Placita de Banco*, Mich. 16 Edw. III. R^o. 333 d. It there appears that the action was brought by Joan, late wife of Peter Pygot, against John le Warde, of Kingston (Notts), Richard Spileman, and Henry le Candler, in respect of a taking of twelve horses, sixteen oxen, twenty cows, and twenty-four heifers, at a certain place in the vill of Ratcliffe-on-Soar, called "le Heghweye under Heymor."

The avowry was, according to the record, as follows:—"Item Johannes, pro se et aliis, bene advocat captionem anius tauri et trium vaccarum de averiis predictis, et uterque predictorum Ricardi et Henrici pro se et predicto Johanne bene advocat captionem aliarum trium vaccarum de eisdem averiis, quia dicunt singillatim quod . . . averia illa fuerunt levantia et quiescentia in predicta villa de Radeclive super Sore, et abinde fugati fuerunt usque quandam locum in villa de Kynston qui vocatur le Clerkesplot, in quo quidem loco iidem Johannes, Ricardus, et Henricus separatim habent communam pasturæ ad omnimoda averia sua tanquam pertinentem ad tenementa sua, quæ ipsi separatim tenent in eadem villa de Kynston, videlicet

"idem Johannes ad unum mesuagium et tres carucatas terræ quæ ipse tenet in eadem villa, et predictus Ricardus ad unum mesuagium et tres carucatas terræ quæ ipse tenet in eadem villa, et predictus Henricus ad unum mesuagium et unam carucatam terræ quæ ipse tenet in eadem villa, quæ quidem villæ de Radeclive et Kynston non communicant ad invicem. Et quia ipsi . . . invenerunt averia predicta in predicto loco de Clerkesplot, in quo predicta Johanna nullam communam habet, communam suam depascentia et damnum facientia, ipsi averia illa ibidem cepisse voluerunt et imparcasse, predicta Johanna venit cum diversis servientibus suis et averia illa fugavit ab eodem loco usque predictum locum de Heghweye under Heymor in predicta villa de Radeclive, et iidem Johannes, Ricardus, et Henricus recenter prosecuti fuerunt averia illa et ea in eodem loco de Heghweye under Heymor ceperunt pro damno predicto facto in predicto loco de Clerkesplot, prout eis bene licuit, &c. Et quo ad alia averia residua de quibus predicta Johanna superius queritur dicunt quod ipsi non ceperunt averia illa sicut eadem Johanna per narrationem suam supponit." Issue was joined on this last point.

No. 86.

A.D. 1342: number, another for another, and the third for the rest, and for *damage feasant*.—*Blaykeston*. We can not answer to different avowries, when our plaint is for one taking, without waiving our plaint.—*SHARSHULLE*. Answer, if you will.—*Blaykeston*. We tell you that Joan, the wife of Peter Pygot, who is plaintiff, is for her life lady of the manor of Ratcliffe, which manor extends into the vills of Ratcliffe and Kingston; and we tell you that the place where the beasts were found pasturing is the waste, &c., and thus Joan's soil; judgment whether you can avow the distress in her soil.—*Pole*. The place where the beasts were found feeding was not the plaintiff's soil, as you have supposed; ready, &c.—And the other side said the contrary.

No. 86.

certeyn nombre, un altre dun altre, et le terce del reme- A.D. 1342.
nant, et pur damage fesaunt.—*Blaik*. Nous ne poms
respoundre a divers avoweres, ou nostre pleynt est dune
prise, si nous ne weyvoms¹ nostre pleynte.—*SCHAR*.
Respondez, si vous voillez.—*Blaik*. Nous vous dioms qe
Joanne,² la femme P. Pygot,³ qest pleintif si est pur sa
vie seigneur del maner de Radclif, quele manere sestent
en les villes de R. et de K. ; et vous dioms qe le lieu ou
les bestes furent troves pessauntz est le wast, &c., et
issint le⁴ soil Joanne⁵; jugement si en soun soil
puissez la destresse avower.—*Pole*. Ceo ne fuit pas le
soil la pleintif ou les bestes furent troves pessauntz,⁶
come vous avez⁷ suppose; prest, &c.—*Et alii e con-*
tra.⁸

Joan's plea was "quod ipsa est
"domina manerii de Radeclive
"super Sore, et tenet manerium
"illud ad terminum vite sue, et
"reversio inde post mortem suam
"spectat ad quendam Radulfum
"Basset de Draytone, et dicit quod
"manerium illud se extendit tam in
"predicta villa de Kynston quam
"in predicta villa de Radeclive, et
"dicit quod predictus locus de Cler-
"kesplot est quondam placea vasti
"eiusdem manerii, et solum ipsius
"Johanne, per quod ipsa misit
"ibidem averia sua predicta ad
"deparandum in solo suo proprio
"in forma predicta. Et hoc parata
"est verificare, unde petit iudicium
"et damna sibi adjudicari."

In the roll there follows a repli-
cation (with a *protestando* not ad-

mitting that the manor of Ratcliffe
extends into the vill of Kingston)
denying that Clerkesplot is Joan's
soil. After this comes a rejoinder
repeating that the manor does so
extend, and that Clerkesplot is
Joan's soil. Issue was joined
thereon, and Joan prayed and had
aid of Ralph Basset.

¹ T., weyvassoms.

² MSS. of Y.B., M.

³ MSS. of Y.B., Hygod.

⁴ 25184, en le.

⁵ T., M.; 25,184, Emme.

⁶ 25,184, puistrent, instead of
furent troves pessaunts.

⁷ 25,184, nous avoms, instead of
vous avez.

⁸ The words *Et alii e contra* are
omitted from 25,184.

No. 87.

A.D. 1342.

*Quare
impedit.*

(87.) § Roger de Reskemmer brought a *Quare impedit* against the Abbot of Beaulieu in respect of the church of St. Keverne, and counted that one who was his great-great-great-grandfather presented, in the time of King Edward the grandfather, &c., his clerk Hervey, after whose death the church is now void; and he made the descent to himself, &c.—*Thorpe*. He has counted of the seisin of his great-great-great-grandfather, on whose seisin a possessory writ does not lie; judgment of the writ.—This exception was not allowed.—*Thorpe*. He has not assigned a cause for the present vacancy by count, although, after the death of the person whom he alleges to have been presented by his ancestor there have, perhaps, been ten parsons.—This exception was not allowed.—*Thorpe*. We hold the said church to our own use of our own patronage, and we so held it years and days before the writ was purchased; so it was full and provided, &c.; judgment of the writ.—*Dervorthy*. And will you not say anything else?—*Thorpe*. That is sufficient for abating the writ as to the party; but because we are a person in religion, as to the Court, we tell you that Richard, heretofore Earl of Cornwall, was seised of the advowson, and gave it in the time of King Henry to our predecessor, and his successors,

No. 87.

(87.)¹ § Roger² de R. porta *Quare impedit* vers l'abbé A.D. 1341.
 de Beaulieu³ del eglise de Seint Caveran, et counta qun *Quare*
 soun quint aiel presenta, en temps le Roi Edward aiel, *impedit.*
 &c., soun clerk H.,⁴ apres qi mort leglise est ore voide;
 et fist la descende a lui, &c.—*Thorpe*. Il ad counte de la
 seisine soun quint aiel, de qi seisine bref de possession ne
 gist pas; jugement du bref.—*Non allocatur*.—*Thorpe*.
 Il nad pas assigne cause de voidaunce a ore par counte,
 qar apres la mort celuy qil fait presente par soun aun-
 cestre ount este par cas x. persones.—*Non allocatur*.—
Thorpe. Nous tenoms en propre oeps mesme leglise de
 nostre avowere demene, et la tenimes aunz et jours
 avant le bref purchace; issint fuit ele pleyne et coun-
 cele,⁵ &c.; jugement du bref.—*Derworthi*. Et altre
 chose ne voillez dire?—*Thorpe*. Quant al bref abatre
 ceo suffit vers partie; mes pur ceo qe nous sumes homme
 de religion, quant a la Court, vous dioms qe Richard, jadis
 Counte de Cornube, fuit seisi del avoweson,⁶ et la dona
 en temps le Roi Henre a nostre predecessour et ses

¹ From T. and 25,184, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 580. It there appears that the action was brought by Roger de Reskemmer against the Abbot of Beaulieu, in respect of a presentation to the church of St. Keverne (Cornwall). The declaration was "quod quidam Ricardus Fitz Gilbert fuit seisisus de manerio de Reskemmer cum pertinentiis, ad quod advocatio prædictæ ecclesiæ pertinet, . . . tempore Edwardi Regis avi domini Regis nunc, qui ad eandem præsentavit quandam Hervicum Fitz Gilbert . . . post cujus mortem prædicta ecclesia modo vacat, &c. Et de ipso Ricardo descendit prædic-

"tum manerium cum pertinentiis
 "cuidam Johanni ut filio et heredi,
 "&c., et de ipso Johanne cuidam
 "Ricardo ut filio et heredi, &c.
 "Et de ipso Ricardo descendit
 "prædictum manerium cum per-
 "tinentiis ad quod, &c., cuidam
 "Johanni ut filio et heredi, &c., et
 "de ipso Johanne cuidam Ricardo
 "ut filio et heredi, &c. Et de ipso
 "Ricardo descendit prædictum
 "manerium ad quod, &c., isti
 "Rogeri ut filio et heredi qui
 "nunc, &c."

² MSS. of Y.B., Richard.

³ T., Bealewe.

⁴ MSS. of Y.B., K.

⁵ 25,184, consele.

⁶ 25,184, lavowere.

No. 87.

A.D. 1345. &c.; and the Pope by his bull, which is here, confirmed, &c.; and thus we hold, &c.—*Derworthy*. Your title of appropriation goes to the destruction of our title, for you suppose the estate in the church to have continued, since the time of King Henry, of your own patronage, which is a traverse to the presentation by our ancestor in the time of the present King's grandfather, which presentation is our title, and which we will maintain.—*SHARDELOWE*. He is not pleading to your action, but seeks to abate your writ on the ground of plenarty; and although you may have feigned a presentation since the appropriation, that will not deprive him of recovery.—*Derworthy*. We tell you that Richard, Earl of Cornwall, never had anything in the advowson, but our ancestor was always seised, and presented, &c., and after the death of his presentee the church became void, and remained void until the day of the purchase of the writ; ready, &c.—*Pole*. It was full, years and days before; ready, &c., wherever we ought to aver it.—*Derworthy*. We have alleged the vacancy, and by a certain fact, which can be tried in this Court by averment; and this Court ought to favour its own jurisdiction.—*SHARDELOWE*. We have not to take cognisance in this Court before we are apprised whether the church be full or not.—Therefore a writ to the Bishop issued.—And a day was given to the parties.—*Derworthy*. We pray that what we have said to disprove the plenarty may be entered.—*SHARDELOWE*. It shall not be, &c.

No. 87.

successours, &c. ; et Lapostoil¹ par sa bulle qe ci² est, A.D. 1342. conferma, &c. ; et issint tenoms, &c.—*Derworthi*. Vostre title dappropriacion est en destruccion de nostre title, qar vous supposez lestat estre continue puis le temps le Roi Henre en leglise de vostre avowere demene, quel est a travers del presentement nostre auncestre en temps le Roi laiel le Roi, &c., quel presentement est nostre title, quel nous voloms maintenir.—*SCHARD*. Il plede pas³ a vostre accion, mes par plenerete voet abatre vostre bref :⁴ et tut eiez vous feint un presentement puis lappropriacion ceo ne luy toudra⁵ pas recoverir. —*Derworthi*. Nous vous dioms qe Richard, Counte de Cornube, navoit unques rien en lavowere, mes nostre auncestre fuit seisi tut temps, et presenta,⁶ &c., et apres la mort soun presente⁷ leglise se voida, et voide demura tanqe al jour del bref purchace ; prest, &c.—*Pole*. Pleyne, aunz et jours avant ; prest, &c., ou averer le devoms.—*Derworthi*. Nous avoms allegge la voidaunce, et par certain fait, qe poet ceinz estre trie par averement, et ceste Court deit favoriser sa jurisdiction demene.—*SCHARD*. Nous navoms pas a conustre ceinz avant ceo qe nous soioms appris si leglise soit pleyne ou nient.—*Ideo breve Episcopo*.—*Et dies datus est partibus*.⁸—*Derworthi*. Nous prioms qe ceo qe nous avoms dit qe desprove⁹ la plenerete soit entre.—*SCHARD*. Noun serra, &c.¹⁰

¹ T., Lappostoille.² T., si.³ pas is omitted from T.⁴ The words vostre bref are omitted from 25,184.⁵ 25,184, tendra.⁶ The words et presenta are omitted from 25,184.⁷ 25,184, predecessour.⁸ *partibus* is omitted from 25,184.⁹ 25,184, desprovee.¹⁰ After the declaration the record continues as follows:—"Et Abbas . . . dicit quod ipse tenet

" prædictam ecclesiam ipsi Abbati
 " et Conventui ejusdem loci et
 " successoribus suis appropriatam
 " in proprios usus, &c., de advoca-
 " tione sua propria, per chartam
 " Ricardi quondam Comitis Cornubie,
 " et concessionem Willelmi
 " Episcopi Exoniensis, Diocesanii,
 " &c., et bullam Gregorii Papæ
 " Noni, tempore Henrici Regis
 " proavi, &c., factas, quas profert,
 " &c., in perpetuum possidendam,
 " et tenuit die impetrationis brevis
 " sui et per sex menses ante, &c.

No. 88.

A.D. 1342. (88.) § Eleanor, late wife of Edmund Botiler, brought
Dower. a writ of Dower against Roger Cantok, and demanded a
third part of the manor of, &c. Roger said that the
subject of demand was only one messuage and one
carucate of land, and in respect thereof he vouched
Ralph, son and heir of Edmund, to warrant, and the

No. 88.

(88.)¹ § Eleanore, qe fuit la femme Edmond Botiler, A.D. 1342.
 porta bref de Dowere vers Roger Cantok, et demanda Dower.
 la terce partie du maner, &c. Roger dit qe ceo ne fuit [Fitz.
 forsquon mies et une carue de terre, et de ceo voucha a *Variauns*,
 garrantie Rauf fitz et heir Edmond, qe vint et entra par 61.]

" Et hoc paratus est verificare ubi
 " et quando, &c., unde petit judi-
 " cium de brevi, &c.

" Et Rogerus dicit quod præ-
 " dictus Hervicus fuit admissus et
 " institutus in ecclesia prædicta ad
 " præsentationem prædicti Ricardi
 " Fitz Gilbert, per cujus mortem
 " prædicta ecclesia postmodum va-
 " cavit, et vacans fuit usque diem
 " impetrationis brevis sui, scilicet
 " quantum decimum diem Aprilis
 " anno regni domini Regis nunc
 " sextodecimo. Et hoc paratus
 " est verificare ubi et quando, &c.

" Et, quia hujusmodi causæ cog-
 " nitio ad forum spectat ecclesiast-
 " ticum, mandatum est Episcopo
 " Exoniensi, loci illius Diocesano,
 " quod, convocatis coram eo convo-
 " candis, &c., rei veritatem super
 " hoc diligenter inquireret, et quid
 " inde inquisierit constare faceret
 " Justiciariis hic a die Sancti Hilarii
 " in xv. dies per literas suas pa-
 " tentes, &c. Idem dies datus est
 " partibus prædictis hic, &c. Ad
 " quem diem prædictus Episcopus
 " misit hic literas suas patentes,
 " quæ testantur quod super omni-
 " bus et singulis articulis in brevi
 " domini Regis inde directo con-
 " tentis diligenter inquisivit per
 " viros fide dignos ad hoc juratos,
 " per quam inquisitionem invenit
 " quod prædicta ecclesia Sancti
 " Keverani est et fuit quinto
 " decimo die Aprilis anno supra-
 " dicto et per centum annos ante

" et amplius de Abbatibus Monas-
 " terii Belli Loci Regis qui pro
 " tempore fuerunt et ejusdem loci
 " Conventu plena pariter et con-
 " sulta. Et super hoc venit præ-
 " dictus Abbas . . . et obtulit
 " se quarto die versus prædictum
 " Rogerum de prædicto placito.
 " Et ipse non venit."

Judgment was accordingly given
 for the Abbot.

¹ From T. and 25,184 compared
 with the record, *Placita de Banco*,
 Mich. 16 Edw. III., B. 640, d.,
 where it appears that this or a like
 action was brought by Eleanor,
 late wife of Theobald Russel,
 against Master Roger Cantok, in
 respect of a third part of the manor
 of Dereham (Gloucestershire), and a
 third part of a moiety of the manor
 of Auste. The vouchee was Ralph
 son and heir of Theobald Russel
 " qui postea venit in eadem Curia
 " . . . et, tanquam heres ipsius
 " Theobaldi sanguine nihil habens
 " per descensum hereditarium in
 " feodo simplici de eodem Theo-
 " bald, eidem Rogero warrantizavit
 " prædictas tertias partes . . .
 " et reddidit prædictæ Alianoræ
 " dotem suam prædictam . . .
 " Et postmodum pro eo quod idem
 " Vicecomes Gloucestræ . . .
 " mandavit . . . quod præ-
 " dictus Radulfus nulla habet terras
 " seu tenementa per descensum
 " hereditarium in feodo simplici de
 " præfato Theobaldo patre suo

No. 88.

A.D. 1342. latter came and entered into warranty in accordance with the deed of his ancestor, which purported that the ancestor had enfeoffed Roger of all the tenements which he had in the manor; and Ralph warranted as one who had nothing by descent. And then execution was had against Roger for the dower, because the heir had nothing. And now Roger sued a *Scire facias* for cause to be shown why he should not have execution against Ralph, to the value of the third part of the manor, of tenements which had since descended to Ralph.—*Grene*. This writ is not warranted by the record; for by this writ he demands execution of the value of a third part of the manor, when by the record it is proved that he vouched only in respect of one messuage and one carucate of land; so he demands execution in respect of a thing different from that which he lost.—*Thorpe*. The writ is warranted by the record; for the record purports that the heir who warranted rendered the subject of demand to the demandant, which could only be as she demanded it, and that was the third part of the manor, and the tenant lost that, and for that he was warranted, and of that the law gives him execution.—*Grene*. That can not be; for, although the woman demanded a third part of a manor, when the tenant alleged that it was only one messuage and one carucate of land, and vouched for that, and the demandant did not counterplead the voucher, as she might have done, and have prayed her judgment and have prayed her seisin of the rest, and she did not, between them they were agreed that there was no more than the messuage and the carucate of land, and neither the voucher nor the recovery was for any more, or otherwise you would give out that the demandant, by accepting the voucher when the tenant was war-

No. 88.

le fait soun auncestre qe voleit qe launcestre¹ lavoit A.D. 1342. enfeffe² de touz les tenementz qil avoit en le maner; ³ et il garrantist come celuy qe rien nad par descende. El adonques execucion fuit fait vers Roger del dowere pur ceo qe leir navoit rien. Et ore Roger suyst *Scire facias* pur quei il navera execucion de la value de la terce partie del maner vers Rauf des tenementz qe luy soient descenduz puis.⁴—*Grene.* Cesty bref nest pas garranti del recorde; qar par ceo bref il demande execucion de la value de la terce partie del maner, ou par le recorde est prove qil voucha forge⁵ dun mies et dune carue de terre; issint demande il execucion daltre chose qil ne perdi.—*Thorpe.* Le bref est garranti del recorde; qar le recorde voet qe leir qe garrantist rendist la demande a la demandaunte, qe ne poet estre mes auxi come ele demanda, et ceo fuit la terce partie du manoir, et ceo perdist le tenant, et de ceo fuit il garranti, et de ceo ley luy⁶ doune execucion.—*Grene.* Ceo ne poet estre; qar, tut demanda la femme terce partie dun manoir, quant le tenant allegge qe ceo ne fuit forsquun mies et une carue de terre, et de ceo voucha, et la demandante nel countrepleda pas, come ele poet aver fait, et aver demande soun jugement et prie seisine del remenant, et ele ne fist pas, entre eux ils furent a un qil ny avoit plus forsque le mies et carue de terre, et de nient plus fuit le voucher ne le recoverir, ou autrement vous durrez qe par⁷ le accepter la demandante ou lo

" . . . eidem Vicecomiti Glou-
cestris precepit dominus Rex
" quod eidem Alianore plenariam
" seisinam suam de predictis tertiis
" partibus . . . versus pre-
" dictum Rogerum petitis sine dila-
" tatione habere faceret."

¹ The words qe launcestre are omitted from T.

² 25,184, feffe.

³ 25,184, maner de Awstone.

⁴ The record "quare eidem Ro-
" gero de terris et tenementis pre-
" dictis quæ ei descenderunt post
" mortem predicti Theobaldi patris
" sui in forma predicta ad valen-
" tiam predictarum tertiarum par-
" tium . . . in loco competenti
" assignari non debeat," &c.

⁵ forge is omitted from T.

⁶ luy is omitted from 25,184.

⁷ par is omitted from 25,184.

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A.D. 1342. ranted only for one messuage, would recover to the value of a manor, which can not be.—HILLARY. Issue whether the demand was more or less can not be taken between the demandant and the tenant, for, whatever the tenant may say, the demandant will recover according to her demand, and process will always be made according to her demand; and the vouchee was summoned and warranted the subject of demand. For suppose that, after appearance, the warrantor made default after he had perhaps counterpleaded her dower, would one messuage and one carucate of land, or a third part of the manor, be taken by the *Petit Cape*? Certainly it would always be according to the demand; but the person who was vouched might have stopped this by saying that the deed by which he was to be bound did not extend to the whole of the subject of demand; and this he did not do, but he rendered the subject of demand; wherefore he is bound to recompense in value according to what she recovered; wherefore it seems to us that the writ is well warranted by the record; and therefore answer.—*Derworthy*. The reason why the demandant did not previously have execution against us was, as appears by the record, that we then had nothing by descent in fee simple, wherefore it was adjudged that she should have execution against the tenant, and he to the value when tenements in fee simple should descend to us; and by this writ nothing is supposed but that assets have descended to us, without showing certainly that they are fee simple, so the effect and force of the judgment which would give him an action are left out of the writ; judgment of the writ.—*Thorpe*. You

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tenant fuit garranti forsque dun mies qil recoverast a la A.D. 1342. value un maner, qe ne poet estre.—HILL. Entre la demandante et le tenant ne poet pas issue estre pris si la demande fuit plus ou meyns, qar¹, quei qe le tenant die, ele recoversa solonc sa demande, et proces se ferra touz jours solonc sa demande; et il fuit somons et garrantist la demande. Qar jeo pose qe, apres apparaunce, le garrant ust fait defaute apres ceo qil ust par cas countreplede son dowere, le quel serra un mies et une carue de terre pris par le petit *Cape* ou la terce partie del maner? *Certum est* touz jours solonc la demande; mes larrest serroit a celui qe fuit vouche daver dit qe le fait par quel il serroit lie sestendi pas a tote la demande; et ceo ne fist il pas, mes il rendist la demande; par quei il est charge de faire a la² value solonc ceo qe ele³ recoverist; par quei nous semble qe le bref est bien garranti del recorde; et pur ceo responez.—*Derworthi*. La cause pur quei la demandaunte navoit pas altrefoitz execucion vers nous fuit, come piert par le recorde, pur ceo qe nous navioms rien adonques par descende en fee simple, par quei fuit agarde qe ele ust execucion vers le tenant, et il a la value quant fee simple nous descendreit; et par ceo bref nest rien suppose mes qe assetz nous est descendu, saunz determiner en certain de fee simple, issint leffect et la force del jugement qe⁴ luy durreit accion est entrelesse el bref;⁵ jugement de bref.⁶—

¹ qar is omitted from T.

² 25,184, en, instead of a la.

³ 25,184, qil, instead of qe ele.

⁴ 25,184, et qe.

⁵ The words el bref are omitted from 25,184.

⁶ The plea which appears on the roll in abatement of the writ of *Scire facias* is as follows:—"Et Radulfus petit auditum recordi de quo predictum breve de *Scire facias* emanavit, &c. Et ei legitur. Et idem Radulfus dicit

" quod in predicto recorde continetur quod ipse Radulfus tantum heres predicti Theobaldi sanguine nihil habens per descensum hereditarium in feodo simplici de eodem Theobaldo prefato Rogero warrantizavit, &c., et reddidit predictis Alianor dotem suam, &c.; et per predictum breve de *Scire facias* in suggestionem predicti Rogeri supponitur tenementa eidem Radulfo post predictam quindenam

No. 88.

A.D. 1342. can plead it by way of answer if nothing has since descended to you in fee simple; besides, you can, perhaps, recompense to the value by a tenancy other than fee simple, because in respect of a mortgage descended to you, and also if your ancestor gave land in tail or for term of life, reserving to himself and his heirs a certain rent, with such rent descended to you you can recompense in value, and yet it is not a fee simple, for the heir will not have for it a Mort d'Ancessor; and this writ on such matter can not be better.—

Stouford. This writ is not warranted by the judgment.

—*Thorpe.* We tell you that Edmund your ancestor leased certain tenements to Roger son of Roger Cantok for the term of his life and one year beyond, rendering to him and his heirs, after the first five years, forty marks by the year; and we tell you that the term of five years has passed, so this rent has descended to him as son and heir of his ancestor, which rent, by law, ought to go towards the recompense in value; and yet he has not a fee simple in the rent; so on that matter we can not have a better or any other writ; judgment.

—*Stouford.* The law does not give a traverse to what

No. 38.

Thorpe. Vous poez dire par voie de respouns si rien A.D. 1342. vous soit descendu puis de fee simple ; ovesqe ceo, par cas, vous ferrez a la¹ value altre tenance qe de fee simple, qar² de morgage descendu, et auxi si vostre auncestre dona terre en la taille ou a terme de vie, salvant a luy et a ses heirs certain rente, de tiele rente descendu a vous ferrez a la¹ value, et si nest ceo pas fee simple, qar leir navera pas de cel Mort Dauncestre ; et cestuy bref sur tiele matere ne purra estre mellieur.³—*Stouf.* Cesty bref nest pas garranti del jugement.—*Thorpe.* Nous vous dioms qe Edmond vostre auncestre lessa certains tenementz a Roger fitz Roger Cantok a terme de sa vie et un an outre, rendaut a luy et a ses heirs, apres les primers v. aunz, xl. marcz par an ; et vous dioms qe le terme de v. aunz est passe, issint cele rente luy est descendu come fitz et heir son auncestre quele par ley deit estre fait en value ; et si nad il pas fee simple en la rente ; issint sur cele matere ne poms aver mellieur³ bref nautre bref ;⁴ jugement.⁵—*Stouf.* A ceo qe vous alleggez

" Paschæ descendisse de eodem
 " Theobaldo per descensum here-
 " ditarium, nec exprimit in eodem
 " brevi quod tenementa aliqua ei
 " descenderunt de eodem patre suo
 " in feodo simplici; et sic breve
 " istud recordo prædicto non con-
 " cordat . . . unde petit judi-
 " cium de brevi, &c."

¹ 25,184, en, instead of a la.

² qar is omitted from 25,184.

³ 25,184, mellieur.

⁴ bref is omitted from 25,184.

⁵ The replication, according to the roll, was " quod prædictus
 " Theobaldus Russel dimisit cuidam
 " Rogero filio Rogeri Cantok ma-
 " nerium de Derham cum pertin-
 " entis tenendum ad totam vitam
 " ejusdem Rogeri filii Rogeri et
 " executoribus suis per unum

" annum ultra, &c., reddendo inde
 " præfato Theobaldo et heredibus
 " suis post quinque annos proxime
 " post prædictam dimissionem sub-
 " sequentes quadraginta marcas
 " . . . annuatim solvendas, qui
 " quidem Theobaldus obiit infra
 " prædictum terminum quinque
 " annorum, &c. Et dicit quod
 " post mortem ejusdem Theobaldi,
 " et post prædictam quindenam
 " Paschæ anno regni domini Regis
 " nunc quinto decimo, præfato ter-
 " mino quinque annorum plenarie
 " completo, prædictus reddidit
 " quadraginta marcarum descendit
 " præfato Radulfo ut filio et heredi
 " ejusdem Theobaldi, &c., in quo
 " casu aliud breve quam istud
 " breve habere non potest. Et ex
 " quo prædictus Radulfus nihi.

No. 88.

A.D. 1343. you allege as a fact outside the record in maintenance of your writ, nor can an issue be taken by the country in maintenance of this writ, which ought to be warranted by the record; but if his matter were such, and the law were to the effect that execution should be had thereof, he should take his writ in accordance with the record, and if exception were taken to it, he could then maintain it on his fact; but, since the writ is at variance with the record, judgment of the writ.—*Thorpe*. If by writ it were supposed that a fee simple had descended to you, and you were to say that it had not, I could not waive my writ, and allege such a fact at variance with my suit.—*Stouford*. Then you would not have any writ.—*Thorpe*. The reason why fee simple is spoken of, in such a matter of warranty, is solely on account of descent in fee tail, which shall not be rendered to the value, and not because nothing shall be rendered to the value except fee simple. Then since the effect of the judgment is to give us security that such a thing descended shall be rendered to the value, that is sufficient to maintain the writ.—*Grene*.—Execution shall never be made in such case except of a fee simple; for if we had by descent such a rent as you allege, and also another in fee simple, execution would be made of the latter and not of the other.—*Thorpe*. One or the other at my election.—*STONORE*. Is the person who sues this writ the same as the person to whom the lease was made?—*Thorpe*. That is not pleaded.—*STONORE*. Is not the land to revert after the death of the lessee? What would become then of this execution?—*Thorpe*. It is at our peril; and one can, at his peril, have execution against the husband in respect of the inheritance of his wife, and yet it is an interest which ceases after the death of the wife; so in the case put.—And they were adjourned.—See more in Hilary Term next.¹

¹ The reference appears to be to Y.B., Hil., 17 Edw. III., No. 39.

No. 88.

en fait hors de recorde en maintenance de vostre bref A.D. 1342. ley ne¹ doune travers, mes issue ne puit estre pris par pais de maintenir ceo bref qe deit estre garranti del recorde; mes si sa matere fuit tiele, et ley voleit qe execucion se freit² de cel, il p̄ndreit son bref accordant al recorde, et si ceo fuit chalange il le purroit adonques maintenir sur soun fait; mes, del houre qe le bref est variant del record, jugement du bref.—*Thorpe*. Si par bref fuit suppose qe fee simple fuit descendu a vous, et vous deissez qe noun, jeo ne purroi pas weyver moun bref et allegger tiel fait a contrarie de ma suite. *Stouf*. Donques naverez nul bref.—*Thorpe*. La resoun pur quei homme parle de fee simple en tiele matere de garrantie est soulement pur la desceute³ de fee taille, qe ne serra pas fait en value, et noun pas pur ceo qe nule chose serroit fait en value forsqe fee simple. Donques del hure qe leffect du jugement nous soert qe tiele chose descendu serra fait en value, ceo suffit pur maintenir le bref.—*Grene*. Execucion se fra jammes en tiel cas fors qe de fee simple; qar si nous ussoms tiele rente come vous alleggez descendu, et auxi altre de fee simple, lexecucion se freit de lautre et noun pas de ceste.—*Thorpe*. Lun ou lautre a ma elite.—*STON*. Est il⁴ mesme la persone qe suit ceo bref et a qi le lees fuit fait?—*Thorpe*. Ceo nest pas plede.⁵—*STON*. Nest la terre a reverter apres le decees le lesse? Ou devendroit donques ceste execucion?—*Thorpe*. Cest a nostre peril; et homme pout aver execucion vers le baroun del heritage sa femme a son peril, et si est la chose a cesser apres la mort la femme; *sic in proposito*.—*Et adjornantur*.⁶—*Quære plus Hilarii proximo*.

" aliud dicit quare ipse Rogerus
" executionem, &c., versus eum
" habere non debet, &c., petit executionem, &c."

¹ 25,184, moi.

² T., fist.

³ The words pur la desceute are omitted from T.

⁴ 25,184, Il est, instead of Est il.

⁵ 25,184, plece.

⁶ The adjournment, in the roll, follows the replication. In the end Ralph

No. 89.

A.D. 1342.
Dower.

(89.) § Hugh le Despenser and his wife brought a writ of Dower against one who vouched four sisters and heiresses of G. Badlesmere, the first husband of the demandant, &c., together with their husbands. At the

No. 89.

(89.)¹ § Hugh le Despenser et sa femme porterent A.D. 1342.
bref de Dowere vers un qe voucha iiij.³ soers et heirs G. Dower.³
Badlesmere, le primer baroun la demandaunte, &c., ove [Fitz.
Jugement.
111.]

failed to appear, and judgment was given for Roger to have execution.

¹ From T. and 25, 184, but corrected by the record, *Placita de Banco*, Mich. 16 Edw. III., R^o. 623 d. It there appears that the action was brought by Hugh le Despenser and Elizabeth his wife against John Fitz Bernard, knight, in respect of a third part of one messuage, forty-four acres of land, and 24*l.* of rent in various places in Kent, of the endowment of Giles de Badlesmere, knight, Elizabeth's previous husband. The tenant vouched John de Typetot and Margaret his wife, one of the sisters and heirs of Giles, together with Elizabeth, Matilda, and Margery, the other sisters and heirs of Giles, and their respective husbands, viz. William de Bohun, Earl of Northampton, John de Veer, Earl of Oxford, and William de Roos of Hamelak. The vouches John de Typetot and Margaret his wife made default after default:—

“ Et quia testatum est hic ex parte prædictorum Hugonis et Elizabethæ petentium quod prædicti Johannes Typetot et Margareta satis habent in proparte ipsius Margaretæ de hereditate quæ fuit prædicti Egidii fratris, &c., unde facere possint prædictis Hugoni et Elizabethæ petentibus, &c., ad valentiam quartæ partis prædictæ tertie partis prædictorum tenementorum . . . consideratum est quod prædictus Johannes Fitz Bernard quo ad prædictam quartam partem quæ prædictos Johannem Typetot et

“ Margaretam contingit de tene-
“ mentis prædictis, unde, &c.,
“ teneat in pace, et prædicti Hugo
“ et Elizabetha petentes habeant
“ de terra prædictorum Johannis
“ Typetot et Margaretæ ad valen-
“ tiam quartæ partis prædictæ ter-
“ tiæ partis, &c.”

The other vouches subsequently appeared in respect of the remaining three parts of the demand. “ Et
“ iidem Comes Northamptoniæ et
“ Elizabetha uxor ejus dicunt quod,
“ post mortem prædicti Egidii,
“ terræ et tenementa, &c., quæ
“ fuerunt ejusdem Egidii partita
“ fuerunt inter participes prædictas,
“ ita quod reversio integri prædic-
“ torum tenementorum, &c., unde,
“ &c., assignata fuit proparti ipsius
“ Elizabethæ nunc uxoris ejusdem
“ Comitis Northamptoniæ, &c. Et
“ tam ipsi quam prædicti Comes
“ Oxoniæ et Matildis, Willelmus de
“ Roos et Margeria, in forma qua
“ superius vocati sunt, &c., præ-
“ dicto Johanni Fitz Bernard war-
“ rantizant, &c. Et dicunt quod
“ prædicti Hugo et Elizabetha uxor
“ ejus non debent inde dotem ipsius
“ Elizabethæ habere, quia dicunt
“ quod prædictus Egidius quondam
“ vir, &c., post desponsalia inter
“ ipsos Egidium et Elizabetham
“ celebrata, idem Egidius non fuit
“ seisitus de prædictis tenementis
“ ut de feodo ita quod ipsam Eliza-
“ betham inde dotare potuit.”
Issue was joined thereon.

² The marginal note is omitted from T.

³ 25, 184, iiij.

No. 90.

A.D. 1342. return of the *Cape* one made default.—*Thorpe*. We pray seisin of a fourth part.—*HILLARY*. Has she who makes default assets in fee simple of the inheritance of the husband?—*Thorpe*. Yes, Sir, according to her share, and we pray judgment.—*STONORE*. You are fully entitled to it.—And as to the others, they asked what the tenant had to bind them.—The tenant showed a deed by which their brother enfeoffed him for his life with warranty.—*R. Thorpe*. We tell you that the reversion was on a partition allotted to the Earl of Northampton and his wife, one of the parceners, who is vouched. So they enter [into warranty] together with the other vouchees, and they say that the demandant's husband was not, after the marriage, seised so that he could endow her; ready, &c.—And the other side said the contrary.—*Thorpe*, as to the fourth part, for the demandant, prayed her judgment.—*HILLARY*. Enter the judgment on the testimony of the demandant, &c.

Writ of
Annuity.

(90.) § The Prior of St. Nicholas of Arundel brought a writ of Annuity against the parson of Harting, and counted that the Prior's predecessor, and the parson's predecessor, on a dispute touching the patronage, submitted themselves to the Ordinary, &c., who ordained that the Prior should give to the parson's predecessor certain tithes, and the parson's predecessor granted to the Prior's

No. 90.

lour barouns. Al *Cape* retorne une fist defaute.—A.D. 1342.
Thorpe. Nous prioms seisine de la quarte partie.—HILL.
 Ad cele qe fait ¹ defaute assetz del heritage le baroun en
 fee simple?—*Thorpe*. Sire, oil, solonc sa porcion, et
 prioms jugement.—STON. Vous avendres bien.—Et
 quant as altres eles demanderent ceo qe le tenant avoit
 de les ² lier.³—Le tenant moustra ⁴ fait par quele lour
 frere le feffa pur sa vie ove garrantie.—*R. Thorpe*.
 Nous vous dioms qe la reversion par purpartie est
 allote al Counte de Northamtone et sa femme, une
 des parceners, qest vouche. Issint ils entrent ove
 les altres vouches et dient qe le baroun la demandante
 puis les esposailles ne fuit pas seisi si qe dower la
 pout; prest, &c.—*Et alii e contra*.—*Thorpe*, qaunt a
 la quarte partie, pur la demandante pria soun jugement.
 —HILL. Entrez le jugement sur la tesmoignaunce la
 demandaunte, &c.⁵

(90.)⁶ § Le Priour de Saint Nicole⁸ Darundel porta Bref de ⁷
Annuite.
Fitz.
Annuite,
24.
 bref dannuite vers la persone de H.,⁹ et counta coment le
 predecessour le Priour, et le predecessour la persone, sur
 debat del patronage, se mistrent en submission Dordyner,¹⁰
 &c., qe ordeina qe le Priour durreit al predecessour la
 persone certeyn dismes, et le predecessour la persone

¹ 25,184, fist.

² 25,184, lees.

³ 25,184, leir.

⁴ 25,184, et moustra.

⁵ The words la demandaunte, &c., are omitted from 25,184, in which MS. appear, after the word tesmoignaunce, the words *quia ibi iudicium erit simplex, ut supra*. There are also added in a later hand the words *Residuum*, 18 Edw. 3, 26.

⁶ From T. and 25,184, but corrected by the record, which belongs to the term next preceding, viz., *Placita de Banco*, Trin. 16 Edw. III. Ro. 322. It there appears that the

action was brought by the Prior of St. Nicholas of Arundel against Richard de Neubury, parson of the church of Herting (Harting) Sussex.

⁷ The words *bref de* are omitted from 25,184.

⁸ MSS. of Y.B. Johan.

⁹ MSS. of Y.B., E.

¹⁰ According to the record the dispute was settled at Salisbury before W. Dean of Sées, and the Chancellor and Precentor of Salisbury, his co-judges by delegation from the Apostolic See.

No. 90.

A.D. 1342. predecessor an annuity, with the assent of the Ordinary ; and *profert* was made of deeds in witness of the facts.—*Notton*. He shows nothing in witness of the consent of the patron, without whose consent the church cannot be charged ; judgment whether he ought to be answered.—*Pole*. That is to our action, and we understand that what we say is sufficient for a title, even though the patron was not a party, because your predecessor received *quid pro quo*, of which you are seised ; judgment whether this be not a sufficient title.—*Notton*. And we pray judgment, since a church cannot rightfully be charged without a deed of the patron, whether you shall be answered.—*SHARDELOWE*. Will you not have aid ?—*Pole*. Aid was granted to him, and the prayees in aid did not come ; wherefore we demand judgment, since the annuity was granted for tithes of which he is seised, which fact he does not deny, and we pray the annuity and our damages.—*KELSHILLE*. Because you have not denied that you are seised of the tithes, and thus have *quid pro quo*, the Court adjudges that the Prior do recover the annuity, and the arrears, and his damages assessed by the Court, and that you (the defendant) be in mercy.

No. 90.

graunta a son predecesseur lannuite del assent Lordi- A.D. 1342.
ner; ¹ et ces faitz furent moustres.—*Nottone*. Il moustre
rien del assent le patroun, saunz qi assent leglise ne
poet pas estre charge; jugement sil deyve estre respondu.
—*Pole*. Cest a nostre accion, et nous entendoms qe ceo
qe nous dioms suffit pur title, tut fuit le patroun pas
partie, qar vestre predecesseur resceut *quid pro quo*, de
quei vous estes seisi; jugement si oeo ne soit suffisant ²
title.—*Nottone*. Et nous jugement, del hure qe sanz
fait del patroun leglise ne poet en dreit estre charge, si
vous serrez respondu.—*SCHARD*. Ne voületz pas avoir
eide?—*Pole*. Eide lui fuit graunte et il ne vindrent
pas; ³ par quei nous demandoms jugement del houre qe
lannuite fuit graunte pur dismes des quez il est seisi,
quele chose il ne dedit pas, et prioms lannuite et nos
damages.—*KELS*. Pur ceo qe vous navez pas dedit qe
vous nestes seisi des dismes, issi avez ⁴ *quid pro quo*, si
agarde la Court qe le Priour recowere lannuite, et les
arrarages, et ses damages par la Court, ⁵ et vous en la
mercy.

¹ According to the record the agreement was confirmed by the Bishop of Chichester, with the consent of the Dean and Chapter.

² T., sufficient.

³ According to the record the defendant prayed aid, immediately after the declaration, of Henry Husee, the patron of the Church,

and of the Bishop of Chichester, the Ordinary, who did not appear, the defendant then having to answer without them.

⁴ *aves* is omitted from T.

⁵ The words *par la Court* are omitted from T. According to the record the damages were assessed by the Court at 40s.

(591)

APPENDIX.

APPENDIX.

RECORD OF THE CASE, REPORTED AS NO. 32 OF TRINITY TERM,
16 EDWARD III., AS IT APPEARS IN THE PLACITA DE BANCO
OF THE PREVIOUS HILARY TERM, R^o. 245 d.

Johannes de Suttone, chivaler, summonitus fuit ad respondendum Abbatisse de Berkyng de placito quod reddat ei quoddam scriptum obligatorium quod ei injuste detinet, &c. Et unde eadem Abbatisa, per Johannem de Depedene attornatum suum, dicit quod, cum contentio esset inter Abbatem de Waltham, qui nunc est, et Iolentam quondam Abbatissam de Berkyng, prædecessorem prædictæ Abbatisse nunc, de eo quod, cum prædicta Iolenta Abbatisa, &c., habuisset quendam visum franci plegii tenendum bis per annum, videlicet ad Festa Paschæ et Sancti Michaelis, pro voluntate ejusdem Abbatisse, apud Wodeforde, et vocatur visus de Wodeforde, et etiam dimidium Hundredum quod vocatur Hundredum de Bekentre, ut de jure ecclesiæ suæ beatæ Mariæ de Berkyng, ad quem visum omnes residentes villæ de Wodeforde debent venire ad præsentandum ea quæ sunt præsentabilia ad visum, &c., et similiter tenendum dimidium Hundredum suum prædictum apud Wodeforde de tribus septimanis in tres septimanas, ad quod Hundredum omnes liberi tenentes prædictæ villæ de Wodeforde debent venire et sectam facere de tribus septimanis in tres septimanas, et similiter omnes tenentes qui vocantur Reyntofte et Prille in villa de Loktone venire debent ad idem Hundredum in forma prædicta, de quibus visu et adventibus ad visum illum, præsentationibus, proficuis inde percipiendis, et dimidio Hundredo supradicto, sectis ad dimidium Hundredum illud tenendum modo supradicto, et proficuis percipiendis et habendis, prout ad Hundredum pertinet, quædam Alianora quondam Abbatisa de Berkyng prædecessor, &c., fuit scisita, ut de jure ecclesiæ suæ prædictæ, et similiter omnes Abbatisse prædecessores, &c., a tempore quo non extat memoria, fuerunt inde scisitæ ut de jure ecclesiæ suæ prædictæ, quousque Abbas de Waltham nunc, qui est dominus de Wodeforde, prædictam Iolentam Visum prædictum et præfatum Hundredum tenere impedivit, colore domini sui prædicti, super quo quidam Bartholomæus de Langriche et Johannes Hankyn de Aungre, ex parte prædicti Abbatis, quinto

die Martii anno regni Regis nunc quinto-decimo, apud Colecestre, concordarunt cum prædicta Iolenta¹ Abbatissa, &c., in hunc modum, scilicet, quod si prædicta Abbatissa, vel aliquis ex parte sua vel ecclesiæ suæ prædictæ, si ecclesia illa vacaverit, venisset apud Wodeforde die Jovis in septimana Paschæ tunc proximo sequente, et ibi duxisset octo] homines Hundredi de Bekentre paratos ad jurandum, tactis sacrosanctis Evangeliiis, quod prædicta Alianora Abbatissa, &c., prædecessor, &c., fuit seiscita de secuis et adventibus illorum qui ad Visum et Hundredum prædicta venire debent in forma prædictæ, quod tunc prædictus Abbas de Waltham et Conventus ejusdem loci facerent quoddam factum sigillo suo communi signatum prædictæ Abbatissæ de Berkyngæ quæ² tunc esset et ejusdem loci Conventui quod ipse Abbas nec Conventus nec successores sui unquam aliquam contentionem vel aliquod impedimentum ponerent quominus prædicta Iolenta³ Abbatissa et successores suæ Visum et Hundredum sua prædicta et proficuum inde percipere et habere potuerunt. Et pro securitate hinc inde in hac parte habenda, prædicti Bartholomæus et Johannes fecerunt prædictum scriptum obligatorium, quod summam centum marcarum in se continet solvendam eidem Abbatissæ apud Berkyngæ ad Festum Nativitatis Sancti Johannis Baptistæ tunc proximo sequens, quod quidem scriptum traditum fuit prædicto Johanni de Suttone custodiendum, videlicet die Veneris in secunda septimana Quadragesimæ anno supradicto, per prædictam Iolentam Abbatissam, &c., et prædictos Bartholomæum et Johannem Hankyn, sub hac forma, ita quod si aliquis ex parte prædictæ ecclesiæ de Berkyngæ vel ex parte prædictæ Iolentæ Abbatissæ, &c., venisset apud Wodeforde prædicto die Jovis in septimana Paschæ et ibidem duxisset octo homines paratos jurare in forma qua supradictum est, quod tunc prædictum scriptum obligatorium liberaretur Abbatissæ de Berkyngæ quæ tunc esset, et si probatio prædicta in forma supradicta accepta fuisset, et prædicti Abbas et Conventus fecissent prædictæ Abbatissæ factum supradictum, ut est dictum, prædictum scriptum obligatorium centum marcarum pro nullo

¹ The word *Iolenta* has been inserted by interlineation in the Roll of *Placita de Banco*, and this is, no doubt, the amendment, or part of the amendment, of the Roll of the Justices which is mentioned in the report. The same amendment has also been made in the *Rotulus Regis* of the same term (R^o. 19) as it now stands. In the latter,

however, the word *nunc* was added after the word *Abbatissa*, but this has been underlined, possibly as a mark of deletion.

² Both rolls, *qui*.

³ Here also the word *Iolenta* has been inserted by interlineation in the Roll of *Placita de Banco* (or Roll of the Justices), but the *Rotulus Regis* remains uncorrected.

teneretur. Ad quem diem Jovis quidam Johannes de Boys et Johannes de Cotum, per ecclesiam de Berkynge prædictam post mortem prædictæ Iolentæ Abbatisse, &c., duxerunt apud Wodeforde octo homines paratos jurare in forma prædictæ secundum conventionem supradictam, et tunc nullus ex parte prædicti Abbatis venit ibidem ad probationem illam nec juramentum prædictum recipiendum, nec prædicti Abbas et Conventus aliquod factum secundum conventionem supradictam prædictæ Abbatisse nec ecclesiæ suæ prædictæ fecerunt, per quod actio ad petendum prædictum scriptum de prædicto Johanne de Sutton eadem Abbatisse nunc accrevit, prædictus Johannes, licet sæpius requisitus, scriptum prædictum ipsi Abbatisse nondum reddidit, sed adhuc reddere contradicit, unde dicit quod deteriorata est et damnum habet ad valentiam ducentarum librarum. Et inde producit sectam, &c.

Et Johannes, per Johannem de More, attornatum suum, venit et defendit vim et injuriam, quando, &c. Et non potest dedicere quin ipse recepit scriptum prædictum custodiendum in forma prædicta, sed utrum conditiones prædictæ impletæ sint necne ignorat. Et paratus est scriptum illud reddere cui Curia consideraverit, &c.

Ideo præceptum est Vicecomiti quod per probos, &c., scire faciat prædictis Bartholomæo et Johanni Hankyn quod sint hic a die Paschæ in tres septimanas, per Justiciarios, ostensuri, &c., si quid, &c., quare prædictum scriptum prædictæ Abbatisse reddi non debeat, &c.

Idem dies datus est partibus prædictis hic, &c.¹ Ad quem diem veniunt partes prædictæ per attornatos suos prædictos, et Vicecomes non misit breve. Ideo sicut prius habeat inde breve in forma prædicta returnabile hic a die Sanctæ Trinitatis in xv dies, per Justiciarios, &c.

² Et modo, scilicet ad diem illum, veniunt tam prædictus Johannes, per prædictum attornatum suum, quam prædicta Abbatisa in propria persona sua, &c. Et Vicecomes mandavit

¹ In the *Rotulus Regis* of Hilary Term the case ends at this point, but there is, in the margin, a correct reference to the Roll of *Placita de Banco* of the same Term (R^o. 245).

² At this point the case is taken up again in the *Rotulus Regis* of Trinity Term, 16 Edw. III., R. 43. The greater part of the skin has perished through damp,

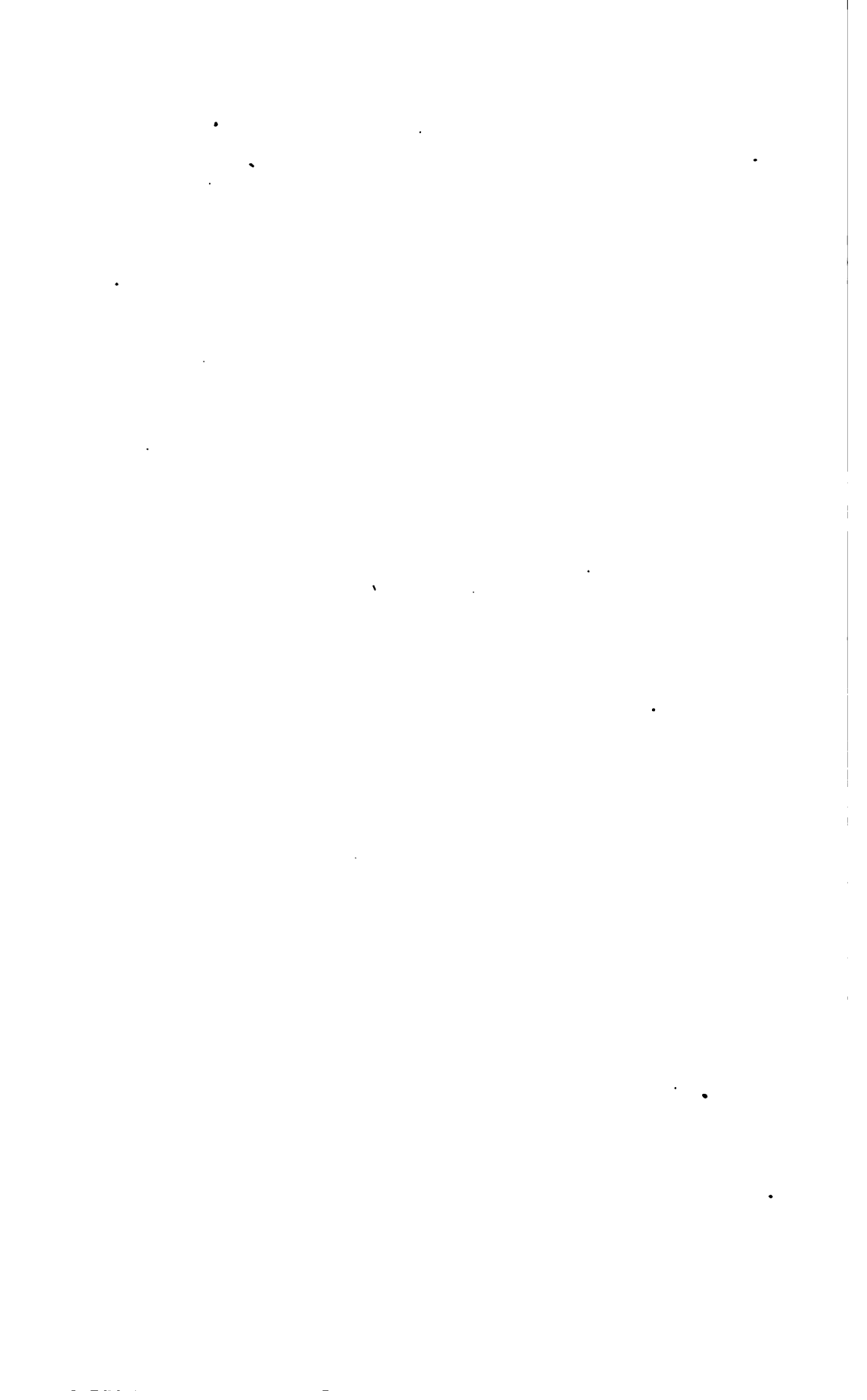
but enough remains to identify the conclusion of the case. The adjournment from Easter to Trinity was no doubt entered upon the *Rotulus Regis* of Easter Term, but that roll is not in its original condition, the skins being out of their proper order, and one of them (numbered 42) being sewn in upside down.

quod soire fecit prædictis Bartholomæo et Johanni Hankyn, per Johannem atte Doune, et Johannem Persoun, &c., quod essent hic ad diem illum ostensuri in forma prædicta, &c. Qui quidem Bartholomæus et Johannes Hankyn modo veniunt, et petunt auditum tam brevis per quod, &c., quam recordi unde, &c., quibus lectis et auditis, dicunt quod ad ipsos Bartholomæum et Johannem Hankyn, et non ad prædictam Abbatissam, scriptum prædictum reddi debet, &c., quia dicunt quod super contentione prædicta, die Martii prædicto, apud Colecestre, convenit inter prædictos Bartholomæum et Johannem Hankyn, ex parte prædicti Abbatis, et prædictam Iolentam quondam Abbatissam, &c., prædecessorem, &c., in hac forma, &c., videlicet quod tam prædictus Abbas quam prædicta Iolenta Abbatissa venirent in propriis personis die Jovis prædicto apud Wodeforde, et prædicta Iolenta Abbatissa, &c., duceret ibidem octo homines ad jurandum in forma prædicta, et, post sacramentum inde sic factum, duo homines eligerentur ex parte prædicti Abbatis, et duo ex parte prædictæ Iolentæ Abbatissæ, &c., per quos damna quæ eadem Iolenta Abbatissa sustinuit occasione quod prædictus Abbas impedivit ipsam Iolentam Abbatissam, &c., tenere Visum et Hundredum sua in forma prædicta adjudicaretur, et, si illi quatuor super hoc concordare minime possent, tunc quintus eligeretur, ut impar, &c., per cujus assensum damna illa adjudicaretur, &c., de quibus damnis sic adjudicatis si prædictus Abbas satisfaceret, &c., et idem Abbas per scriptum suum sigillo communi Domus signatum pro se et successoribus suis concederet quod ipse nec successores sui præfatam Iolentam Abbatissam, &c., nec successores suas ex tunc in nullo impedirent quin ipsæ Visum et Hundredum prædicta tenere possent in forma prædicta in perpetuum, et tunc prædicta Iolenta Abbatissa, &c., per scriptum suum remitteret eidem Abbati omnimodas actiones transgressionum quarumcunque, &c., et si eadem Iolenta Abbatissa, &c., non veniret ad diem Jovis prædictum ad conventiones prædictas ex parte sua complendas, tunc scriptum obligatorium prædictum præfatis Bartholomæo et Johanni Hankyn liberaretur, &c., et si prædictus Abbas non veniret ad diem illum ad præmissa ex parte sua complenda, tunc scriptum obligatorium prædictum præfatæ Iolentæ Abbatissæ, &c., liberaretur. Et dicunt quod scriptum illud obligatorium traditum fuit prædicto Johanni de Suttone sub conditionibus prædictis custodiendum, &c., et ad diem Jovis prædictum reddendum cui, &c. Dicunt etiam quod prædictus Abbas ad diem illum venit ibidem paratus ad conventiones prædictas complendum, &c., et prædicta Iolenta Abbatissa, &c., non venit, nec aliquis hominum prædictorum ibidem juravit prout conventum fuit. Et hoc parati sunt verificare, &c.; et petunt judicium, &c.

Et Abbatisa nunc dicit quod ipsa pro hoc ab actione sua prædicta excludi non debet, &c., quia dicit quod scriptum obligatorium prædictum traditum fuit prædicto Johanni de Suttone custodiendum super conventionibus prædictis per ipsam Abbatisam in narrando recitatis, et non super conventionibus prædictis per ipsos Bartholomæum et Johannem Hankyn allegatis. Et hoc petit quod inquiratur per patriam. Et Bartholomæus et Johannes Hankyn similiter.

Ideo præceptum est Vicecomiti quod venire faciat hic a die Sancti Michaelis in xv dies, per Justiciarios, xij, &c., per quos, &c., et qui nec, &c., ad recognoscendum, &c., quia tam, &c. Idem dies datus est prædicto Johanni de Suttone, per prædictum attornatum suum, hic in Banco, &c. Et super hoc prædicta Abbatisa ponit loco suo Ricardum de Fyfhyde, et etiam prædicti Bartholomæus et Johannes Hankyn ponunt loco suo Willelmum Moriz de eodem placito.

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If, in an action of Debt brought against the debtor's heir, the latter plead that he has not, and had not on the day of the purchase of the writ, anything which descended to him in fee simple, there is duplicity, because the meaning may be either that nothing descended in fee simple, or that the heir is not, and was not on the day of purchase seised of that which did descend, and the Court will not enquire as to both, 384-386.

(Detinue, and *Seire facias* thereon.) Pleadings in an action brought by A. against B. in respect of a writing whereby C. and D. were bound to A's predecessor (an Abbess) for the performance of certain covenants, which writing had been delivered to B. as bailee, 118-142.

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If the King bring an action against a Bishop and another, and the Bishop claim only the right of institution and deprivation as Ordinary, the King shall have his writ to the Bishop, but not until the action against the other person has been determined, 20.

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Pleadings in, where the King claims as in right of an alien Abbot whose possessions have been seized into the King's hands, and the defendant alleges a grant of the advowson to himself from the alien Abbot's predecessor, before the Statute *De Religiosis*, 226–232.

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If all the lands, &c., of a lunatic or idiot are seized into the hands of the King, who presents, and after the death of the idiot or lunatic the heir has livery of the lands, &c., in general terms, without express mention of the advowson, the livery is good as to the advowson, and the King cannot maintain an action of *Quare impedit*, 236–240.

The King having brought a writ against A. (an alien Prior) and another against B. (an English subject) in respect of the same church, the count on both is that A's predecessor was seized of the advowson and presented, that the King seized the temporalities of the Priory, by reason of the war with France, but restored them to A. at a certain annual rent, and that this restitution was revoked by judgment of Parliament, after which revocation the church became void. A. pleaded that the church had not been void since the revocation. B. pleaded that, after the restitution, A. had leased to him the manor to which the ad-

QUARE IMPEDIT—*cont.*

vowson was appendant. After lengthy pleadings, judgment was given for the King, for reasons stated in the record, 300-310.

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A purchaser from an heir, whose presentation has been usurped during his minority, cannot avoid the usurpation or be aided by the Statute of Westminster the Second (13 Edw. I.), c. 5, and this is confessed by the defendant in a *Quare impedit*, 538-546, 547, note 5.

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Render of rent upon, accepted in lieu of attornment, 204.

Pleadings in, where the writ was brought against a tenant for life. 250-252.

Where tenements have been demised by A. to B. and C. for their lives, and C. has conveyed his estate to D., and A. has ratified C.'s conveyance, and has afterwards granted that, if B. and D. shall die within nine years the tenements shall remain to their

QUID JURIS CLAMAT—*cont.*

heirs, executors, or assigns, until the end of the nine years, and B. has died before the expiration of the nine years, *Quare* ought D. to attorn to the person to whom A. has granted the tenements by fine, 252-254.

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QUOD PERMITTAT :

If a *Quod permittat* be brought, in the *debet* and *solet*, in respect of common of pasture, and the tenant put himself on the Grand Assise by mise, and the demandant offer to join the mise (as on a writ of Right) the Court will not permit it, because a writ in the *debet* and *solet* is a possessory writ. The writ may, however, be amended, and the *solet* taken out by consent, and the mise may then be joined, 178-182.

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In *Quid juris clamat*, if the husband make default after the jury has been charged at *Nisi prius*, the wife cannot be admitted to defend; and if the verdict pass against them, and the matter be adjourned into the Common Bench for judgment, she will again not be admitted, 58.

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If, in a plea of land against husband and wife, and their two sons jointly, the two sons appear at *Nisi prius*, and the husband make default, and a verdict pass for the demandant, and judgment be prayed in the Bench, the wife cannot be admitted to defend in respect of the two parts, but seisin thereof will be awarded to the demandant, and a *Petit Cape* as to the third part, 288-290.

If, in a plea of land, against husband and wife, it be pleaded that the wife has nothing, and the husband afterwards make default, the wife may, notwithstanding the disclaimer, which was the act of the husband, be admitted to defend her right, 374.

Arguments and pleadings as to the admission of a reversioner to defend in Assise of Novel Disseisin, and decision thereon, 420-434, 435, note 9.

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The object of these publications is to make the contents of the Public Record Office more easily available. In conjunction with the Calendars, they will, in course of time, form a catalogue of the National Archives, as explained in the Fifty-first Report of the Deputy Keeper of the Records (page 10).

No. I. Index of ANCIENT PETITIONS of the Chancery and the Exchequer. 1892. Price 9s. 6d.

No. II. List and Index of DECLARED ACCOUNTS from the Pipe Office and the Audit Office. 1898. Price 15s.

No. III. List of volumes of STATE PAPERS (Great Britain and Ireland). Part I., A.D. 1547-1760. 1894. Price 6s. 6d.

No. IV. List of PLEA ROLLS. 1894. Price 7s.

No. V. List of MINISTERS' ACCOUNTS preserved in the Public Record Office. Part I. 1894. Price 16s.

No. VI. List and Index of COURT ROLLS preserved in the Public Record Office. Part I. 1896. Price 15s.

No. VII. Index of CHANCERY PROCEEDINGS, Series II. A.D. 1558-1579. 1896. Price 14s.

No. VIII. List and Index of MINISTERS' ACCOUNTS. Appendix, Corrigenda and Index to Part I. 1897. Price 8s.

No. IX. List of SHERIFFS. 1898. Price 9s.

In the Press.

List of ENROLLED ACCOUNTS.

List of proceedings with regard to CHARITABLE USES.

In Progress.

Index of EARLY CHANCERY PROCEEDINGS

List of ANCIENT ACCOUNTS.

List of SURVEYS, RENTALS, &c.

THE CHRONICLES AND MEMORIALS OF GREAT BRITAIN AND IRELAND DURING THE MIDDLE AGES.

[ROYAL 8VO. Price 10s. each Volume or Part.]

On 25 July 1822, the House of Commons presented an address to the Crown, stating that the editions of the works of our ancient historians were inconvenient and defective; that many of their writings still remained in manuscript, and, in some cases, in a single copy only. They added, "that an uniform and convenient edition of the whole, published under His Majesty's royal sanction, would be an undertaking honourable to His Majesty's reign, and conducive to the advancement of historical and constitutional knowledge; that the House therefore humbly besought His Majesty, that He would be graciously pleased to give such directions as His Majesty, in His wisdom, might think fit, for the publication of a complete edition of the ancient historians of this realm."

The Master of the Rolls, being very desirous that effect should be given to the resolution of the House of Commons, submitted to Her Majesty's Treasury in 1857 a plan for the publication of the ancient chronicles and memorials of the United Kingdom, and it was adopted accordingly.

Of the Chronicles and Memorials, the following volumes have been published. They embrace the period from the earliest time of British history down to the end of the reign of Henry VII.

1. THE CHRONICLES OF ENGLAND, by JOHN CAPGRAVE. *Edited by* the Rev. F. C. HINGESTON, M.A. 1858.

Capgrave's Chronicle extends from the creation of the world to the year 1417. As a record of the language spoken in Norfolk (being written in English), it is of considerable value.

2. CHRONICON MONASTERII DE ABINGDON. Vols. I. and II. *Edited by* the Rev. JOSEPH STEVENSON, M.A., Vicar of Leighton Buzzard. 1858.

This Chronicle traces the history of the monastery from its foundation by King Ina of Wessex, to the reign of Richard I. The author had access to the title deeds of the house, and incorporates into his history various charters of the Saxon kings, of great importance as illustrating not only the history of the locality but that of the kingdom.

3. LIVES OF EDWARD THE CONFESSOR. I.—*La Estoire de Saint Aedward le Rei.* II.—*Vita Beati Edvardi Regis et Confessoris.* III.—*Vita Edunardi Regis qui apud Westmonasterium requiescit.* *Edited by* HENRY RICHARDS LUARD, M.A., Fellow and Assistant Tutor of Trinity College, Cambridge. 1858.

The first is a poem in Norman French, probably written in 1245. The second is an anonymous poem, written between 1440 and 1450, which is mainly valuable as a specimen of the Latin poetry of the time. The third, also by an anonymous author, was apparently written between 1066 and 1074.

4. MONUMENTA FRANCISCANA. Vol. I.—Thomas de Eccleston de Adventu Fratrum Minorum in Angliam. Adæ de Marisco Epistolæ. Registrum Fratrum Minorum Londoniæ. *Edited by* J. S. BREWER, M.A., Professor of English Literature, King's College, London. Vol. II.—De Adventu Minorum; re-edited, with additions. Chronicle of the Grey Friars. The ancient English version of the Rule of St. Francis. Abbreviatio Statutorum, 1451, &c. *Edited by* RICHARD HOWLETT, Barrister-at-Law. 1858, 1882.

The first volume contains original materials for the history of the settlement of the order of St. Francis in England, the letters of Adam de Marisco, and other papers. The second volume contains materials found since the first volume was published.

5. *FASCICULI ZIZANIORUM MAGISTRI JOHANNIS WYCLIF CUM TRITICO*. Ascribed to THOMAS NETTER, of WALDEN, Provincial of the Carmelite Order in England, and Confessor to King Henry the Fifth. *Edited by* the Rev. W. W. SHIRLEY, M.A., Tutor and late Fellow of Wadham College, Oxford. 1858.

This work gives the only contemporaneous account of the rise of the Lollards.

6. *THE BUIK OF THE CRONICLIS OF SCOTLAND; OR, A METRICAL VERSION OF THE HISTORY OF HECTOR BOECE*; by WILLIAM STEWART. Vols. I.-III. *Edited by* W. B. TURNBULL, Barrister-at-Law. 1858.

This is a metrical translation of a Latin Prose Chronicle, written in the first half of the 16th century. The narrative begins with the earliest legends and ends with the death of James I. of Scotland, and the "evil ending of the traitors that slew him." The peculiarities of the Scottish dialect are well illustrated in this version.

7. *JOHANNIS CAPGRAVE LIBER DE ILLUSTRIBUS HENRICIS*. *Edited by* the Rev. F. C. HINGESTON, M.A. 1858.

The first part relates only to the history of the Empire from the election of Henry I. the Fowler, to the end of the reign of the Emperor Henry VI. The second part is devoted to English history, from the accession of Henry I. in 1100, to 1446, which was the twenty-fourth year of the reign of Henry VI. The third part contains the lives of illustrious men who have borne the name of Henry in various parts of the world.

8. *HISTORIA MONASTERII S. AUGUSTINI CANTUARIENSIS* by THOMAS OF ELMHAM, formerly Monk and Treasurer of that Foundation. *Edited by* CHARLES HARDWICK, M.A., Fellow of St. Catharine's Hall, and Christian Advocate in the University of Cambridge. 1858.

This history extends from the arrival of St. Augustine in Kent until 1191.

9. *EULOGIUM (HISTORIARUM SIVE TEMPORIS): CHRONICON AB ORBE CONDITO USQUE AD ANNUM DOMINI 1866; A MONACHO QUODAM MALMESBIRIENSI EXARATUM*. Vols. I.-III. *Edited by* F. S. HAYDON, B.A. 1858-1863.

This is a Latin Chronicle extending from the Creation to the latter part of the reign of Edward III., written by a monk of Malmesbury, with a continuation to the year 1413.

10. *MEMORIALS OF HENRY THE SEVENTH; Bernardi Andreæ Tholosatis Vita Regis Henrici Septimi; necnon alia quædam ad eundem Regem spectantia*. *Edited by* JAMES GAIRDNER. 1858.

The contents of this volume are—(1) a life of Henry VII., by his poet Laureate and historiographer, Bernard André, of Toulouse, with some compositions in verse, of which he is supposed to have been the author; (2) the journals of Roger Machado during certain embassies to Spain and Brittany, the first of which had reference to the marriage of the King's son, Arthur, with Catharine of Arragon; (3) two curious reports by envoys sent to Spain in 1505 touching the succession to the Crown of Castile, and a project of marriage between Henry VII. and the Queen of Naples; and (4) an account of Philip of Castile's reception in England in 1506. Other documents of interest are given in an appendix.

11. *MEMORIALS OF HENRY THE FIFTH. I.—Vita Henrici Quinti, Roberto Redmanno auctore. II.—Versus Rhythmici in laudem Regis Henrici Quinti. III.—Elmhami Liber Metricus de Henrico V.* *Edited by* CHARLES A. COLE. 1858.

12. *MUNIMENTÆ GILDHALLÆ LONDONIENSIS; Liber Albus, Liber Custumarum, et Liber Horn, in archivis Gildhallæ asservati*. Vol. I., Liber Albus. Vol. II. (in Two Parts), Liber Custumarum. Vol. III., Translation of the Anglo-Norman Passages in Liber Albus, Glossaries, Appendices, and Index. *Edited by* HENRY THOMAS RILEY, M.A., Barrister-at-Law. 1859-1862.

The *Liber Albus*, compiled by John Carpenter, Common Clerk of the City of London in the year 1419, gives an account of the laws, regulations, and institutions of that City in the 12th, 13th, 14th, and early part of the 15th centuries. The *Liber Custumarum* was compiled in the early part of the 14th century during the reign of Edward II. It also gives an account of the laws, regulations, and institutions of the City of London in the 12th, 13th, and early part of the 14th centuries.

18. *CHRONICA JOHANNIS DE OXENEDES*. *Edited by* SIR HENRY ELLIS, K.H. 1859.

Although this Chronicle tells of the arrival of Hengist and Horsa, it substantially begins with the reign of King Alfred, and comes down to 1292. It is particularly valuable for notices of events in the eastern portions of the Kingdom.

14. A COLLECTION OF POLITICAL POEMS AND SONGS RELATING TO ENGLISH HISTORY, FROM THE ACCESSION OF EDWARD III. TO THE REIGN OF HENRY VIII. Vols. I. and II. *Edited by* THOMAS WRIGHT, M.A. 1859-1861.
15. The "OPUS TERTIUM," "OPUS MINUS," &c. of ROGER BACON. *Edited by* J. S. BREWER, M.A., Professor of English Literature, King's College, London. 1859.
16. BARTHOLOMÆI DE COTTON, MONACHI NORWICENSIS, HISTORIA ANGLICANA; 449-1298; necnon ejusdem Liber de Archiepiscopis et Episcopis Angliæ. *Edited by* HENRY RICHARDS LUARD, M.A., Fellow and Assistant Tutor of Trinity College, Cambridge, 1859.
17. BRUT Y TYWYSOGION; or, The Chronicle of the Princes of Wales. *Edited by* the REV. JOHN WILLIAMS AB ITHEL, M.A. 1860.

This work, written in the ancient Welsh language, begins with the abdication and death of Cadwalla at Rome, in the year 681, and continues the history down to the subjugation of Wales by Edward I., about the year 1282.

18. A COLLECTION OF ROYAL AND HISTORICAL LETTERS DURING THE REIGN OF HENRY IV. 1399-1404. *Edited by* the Rev. F. C. HINGESTON, M.A. of Exeter College, Oxford. 1860.
19. THE REPRESSOR OF OVER MUCH BLAMING OF THE CLERGY. By REGINALD PECOCK, sometime Bishop of Chichester. Vols. I. and II. *Edited by* the Rev. CHURCHILL BABINGTON, B.D., Fellow of St. John's College, Cambridge. 1860.

The "Repressor" may be considered the earliest piece of good theological disquisition of which our English prose literature can boast. The author was born about the end of the fourteenth century, consecrated Bishop of St. Asaph in the year 1444, and translated to the see of Chichester in 1450. His work is interesting chiefly because it gives a full account of the views of the Lollards, and it has great value for the philologist.

20. ANNALES CAMBRIÆ. *Edited by* the Rev. JOHN WILLIAMS AB ITHEL, M.A. 1860.

These annals, which are in Latin, commence in 447, and come down to 1286. The earlier portion appears to be taken from an Irish Chronicle used by Tigernach, and by the compiler of the Annals of Ulster.

21. THE WORKS OF GIRALDUS CAMBRENSIS. Vols. I.-IV. *Edited by* the Rev. J. S. BREWER, M.A., Professor of English Literature, King's College, London. Vols. V.-VII. *Edited by* the Rev. JAMES F. DIMOCK, M.A., Rector of Barnburgh, Yorkshire. Vol. VIII. *Edited by* GEORGE F. WARNER, M.A., of the Department of MSS., British Museum. 1861-1891.

These volumes contain the historical works of Gerald du Barry, who lived in the reigns of Henry II., Richard I., and John. His works are of a very miscellaneous nature, both in prose and verse, and are remarkable for the anecdotes which they contain.

The *Topographia Hibernica* (in Vol. V.) is the result of Giraldus' two visits to Ireland, the first in 1183, the second in 1185-6, when he accompanied Prince John into that country. The *Expugnatio Hibernica* was written about 1188, and may be regarded rather as a great epic than a sober relation of acts occurring in his own days. Vol. VI. contains the *Itinerarium Kambriæ et Descriptio Kambriæ*; and Vol. VII., the lives of S. Remigius and S. Hugh. Vol. VIII. contains the *Treatise De Principum Instructione*, and an Index to Vols. I.-IV. and VIII.

22. LETTERS AND PAPERS ILLUSTRATIVE OF THE WARS OF THE ENGLISH IN FRANCE DURING THE REIGN OF HENRY THE SIXTH, KING OF ENGLAND, Vol. I., and Vol. II. (in Two Parts). *Edited by* the Rev. JOSEPH STEVENSON, M.A., Vicar of Leighton Buzzard. 1861-1864.
23. THE ANGLO-SAXON CHRONICLE, ACCORDING TO THE SEVERAL ORIGINAL AUTHORITIES. Vol. I., Original Texts. Vol. II., Translation. *Edited and translated by* BENJAMIN THORPE, Member of the Royal Academy of Sciences at Munich, and of the Society of Netherlandish Literature at Leyden. 1861.

There are at present six independent manuscripts of the Saxon Chronicle, ending in different years, and written in different parts of the country. In this edition, the text of each manuscript is printed in columns on the same page, so that the student may see at a glance the various changes which occur in orthography.

24. **LETTERS AND PAPERS ILLUSTRATIVE OF THE REIGNS OF RICHARD III. AND HENRY VII.** Vols. I. and II. *Edited by* JAMES GARDINER. 1861-1868.

The principal contents of the volumes are some diplomatic Papers of Richard III., correspondence between Henry VII. and Ferdinand and Isabella of Spain; documents relating to Edmund de la Pole, Earl of Suffolk; and a portion of the correspondence of James IV. of Scotland.

25. **LETTERS OF BISHOP GROSSETESTE.** *Edited by* the Rev. HENRY RICHARDS LUARD, M.A., Fellow and Assistant Tutor of Trinity College, Cambridge. 1861.

The letters of Robert Grosseteste range in date from about 1210 to 1253, and relate to matters connected not only with the political history of England during the reign of Henry III., but with its ecclesiastical condition. They refer especially to the diocese of Lincoln, of which Grosseteste was bishop.

26. **DESCRIPTIVE CATALOGUE OF MANUSCRIPTS RELATING TO THE HISTORY OF GREAT BRITAIN AND IRELAND.** Vol. I. (in Two Parts); Anterior to the Norman Invasion. (*Out of Print.*) Vol. II.; 1086-1200. Vol. III.; 1200-1827. *By* SIR THOMAS DUFFUS HARDY, D.C.L., Deputy Keeper of the Records. 1862-1871.

The object of this work is to publish notices of all known sources of British history, both printed and unprinted, in one continued sequence. The materials, when historical (as distinguished from biographical), are arranged under the year in which the latest event is recorded in the chronicle or history, and not under the period in which its author, real or supposed, flourished. Biographies are enumerated under the year in which the person commemorated died, and not under the year in which the life was written. A brief analysis of each work has been added when deserving it, in which original portions are distinguished from mere compilations. A biographical sketch of the author of each piece has been added, and a brief notice of such British authors as have written on historical subjects.

27. **ROYAL AND OTHER HISTORICAL LETTERS ILLUSTRATIVE OF THE REIGN OF HENRY III.** Vol. I., 1216-1235. Vol. II., 1236-1272. *Selected and edited by* the Rev. W. W. SHIRLEY, D.D., Regius Professor of Ecclesiastical History, and Canon of Christ Church, Oxford. 1862-1866.

28. **CHRONICA MONASTERII S. ALBANI.**—1. THOMÆ WALSINGHAM HISTORIA ANGLICANA; Vol. I., 1272-1381: Vol. II., 1381-1422. 2. WILLELMI RISHANGER CHRONICA ET ANNALES, 1259-1307. 3. JOHANNIS DE TROKELowe ET HENRICI DE BLANEFORDE CHRONICA ET ANNALES 1259-1296; 1307-1324; 1392-1406. 4. GESTA ABBATUM MONASTERII S. ALBANI, A THOMA WALSINGHAM, REGNANTE RICARDO SECUNDO, EUSDEM ECCLESIE PRÆCENTORE, COMPILATA; Vol. I., 798-1290: Vol. II., 1290-1349: Vol. III., 1349-1411. 5. JOHANNIS AMUNDESHAM, MONACHI MONASTERII S. ALBANI, UT VIDETUR, ANNALES; Vols. I. and II. 6. REGISTRA QUORUNDAM ABBATUM MONASTERII S. ALBANI, QUI SEculo xv^{mo} FLORUERE; Vol. I., REGISTRUM ABBATIE JOHANNIS WHETHAMSTEDE, ABBATIS MONASTERII SANCTI ALBANI, ITERUM SUSCEPTÆ; ROBERTO BLAKENY, CAPELLANO, QUONDAM ADSSCRIPTUM: Vol. II., REGISTRA JOHANNIS WHETHAMSTEDE, WILLELMI ALBON, ET WILLELMI WALINGFORDE, ABBATUM MONASTERII SANCTI ALBANI, CUM APPENDICE, CONTINENTE QUASDAM EPISTOLAS A JOHANNES WHETHAMSTEDE CONSCRIPTAS. 7. YPODIGMA NEUSTRIÆ A THOMA WALSINGHAM, QUONDAM MONACHO MONASTERII S. ALBANI, CONSCRIPTUM. *Edited by* HENRY THOMAS RILEY, M.A., Barrister-at-Law. 1868-1876.

In the first two volumes is a History of England, from the death of Henry III. to the death of Henry V., by Thomas Walsingham, Precentor of St. Albans.

In the 3rd volume is a Chronicle of English History, attributed to William Rishanger, who lived in the reign of Edward I.: an account of transactions attending the award of the kingdom of Scotland to John Balliol, 1291-1292, also attributed to William Rishanger, but on no sufficient ground: a short Chronicle of English History, 1292 to 1300, by an unknown hand: a short Chronicle, Willelmi Rishanger Gesta Edwardi Primi, Regis Angliæ, with Annales Regum Angliæ, probably by the same hand: and fragments of three Chronicles of English History, 1285 to 1307.

In the 4th volume is a Chronicle of English History, 1259 to 1296: Annals of Edward II., 1307 to 1333, by John de Trokelowe, a monk of St. Albans, and a continuation of Trokelowe's Annals, 1333, 1334, by Henry de Blanford: a full Chronicle of English History, 1392 to 1406, and an account of the benefactors of St. Albans, written in the early part of the 15th century.

The 5th, 6th, and 7th volumes contain a history of the Abbots of St. Albans, 793 to 1411, mainly compiled by Thomas Walsingham, with a Continuation.

The 8th and 9th volumes, in continuation of the Annals, contain a Chronicle probably of John Amundesham, a monk of St. Albans.

The 10th and 11th volumes relate especially to the acts and proceedings of Abbots Whethamstede, Albon, and Wallingford.

The 19th volume contains a compendious History of England to the reign of Henry V., and of Normandy in early times, also by Thomas Walsingham, and dedicated to Henry V.

29. *CHRONICON ABBATIE EVESHAMENSIS, AUCTORIBUS DOMINICO PRIORE EVESHAMIE ET THOMA DE MARLEBERGE ABBATE, A FUNDATIONE AD ANNUM 1213, UNA CUM CONTINUATIONE AD ANNUM 1418.* Edited by the Rev. W. D. MACRAY, Bodleian Library, Oxford. 1863.

The Chronicle of Evesham illustrates the history of that important monastery from about 890 to 1418. Its chief feature is an autobiography, which makes us acquainted with the inner daily life of a great abbey. Interspersed are many notices of general, personal, and local history.

80. *RICARDI DE CIRENCESTRIA SPECULUM HISTORIALE DE GESTIS REGUM ANGLIE.* Vol. I., 447-871. Vol. II., 872-1066. Edited by JOHN E. B. MAYOR, M.A., Fellow of St. John's College, Cambridge. 1868-1869.

Richard of Cirencester's history, in four books, extends from 447 to 1066. It gives many charters in favour of Westminster Abbey, and a very full account of the lives and miracles of the saints, especially of Edward the Confessor, whose reign occupies the fourth book. A treatise on the Coronation, by William of Sudbury, a monk of Westminster, fills book ii. c. 8.

81. *YEAR BOOKS OF THE REIGNS OF EDWARD THE FIRST AND EDWARD THE THIRD.* Years 20-21, 21-22, 30-31, 32-33, and 38-35 Edw. I.; and 11-12 Edw. III. Edited and translated by ALFRED JOHN HORWOOD, Barrister-at-Law Years 12-13, 13-14, 14, 14-15, 15 and 16 Edward III. Edited and translated by LUKE OWEN PIKE, M.A., Barrister-at-Law. 1868-1896.

The "Year Books" are the earliest of our Law Reports. They contain matter not only of practical utility to lawyers in the present day, but also illustrative of almost every branch of history, while for certain philological purposes they hold a position absolutely unique.

82. *NARRATIVES OF THE EXPULSION OF THE ENGLISH FROM NORMANDY, 1449-1450.*—Robertus Blondelli de Reductione Normanniæ: Le Recouvrement de Normendie, par Berry, Hérault du Roy: Conférences between the Ambassadors of France and England. Edited by the Rev. JOSEPH STEVENSON, M.A. 1863.

83. *HISTORIA ET CARTULARIUM MONASTERII S. PETRI GLOUCESTRIÆ.* Vols. I., II., and III. Edited by W. H. HART, F.S.A., Membre Correspondant de la Société des Antiquaires de Normandie. 1868-1867.

84. *ALEXANDRI NECKAM DE NATURIS RERUM LIBRI DUO; with NECKAM'S POEM, DE LAUDIBUS DIVINÆ SAPIENTIÆ.* Edited by THOMAS WRIGHT, M.A. 1863.

In the *De Naturis Rerum* are to be found what may be called the rudiments of many sciences mixed up with much error and ignorance. Neckam had his own views in morals, and in giving us a glimpse of them, as well as of his other opinions, he throws much light upon the manners, customs, and general tone of thought prevalent in the twelfth century.

85. *LEECHDOMS, WORTCUNNING, AND STARCRAFT OF EARLY ENGLAND; being a Collection of Documents illustrating the History of Science in this Country before the Norman Conquest.* Vols. I.-III. Collected and edited by the Rev. T. OSWALD COCKAYNE, M.A. 1864-1866.

86. *ANNALES MONASTICI.* Vol. I.:—Annales de Margan, 1066-1282; Annales de Theokesberia, 1066-1268; Annales de Burton, 1004-1268. Vol. II.:—Annales Monasterii de Wintonia, 519-1277; Annales Monasterii de Waverleia, 1-1291. Vol. III.:—Annales Prioratus de Dunstaplia, 1-1297. Annales Monasterii de Bermundeseia, 1042-1492. Vol. IV.:—Annales Monasterii de Oseneia, 1016-1847; Chronicon vulgo dictum Chronicon Thomæ Wykes, 1066-1289; Annales Prioratus de Wigornia, 1-1877. Vol. V.:—Index and Glossary. Edited by HENRY RICHARDS LUARD, M.A., Fellow and Assistant Tutor of Trinity College, and Registry of the University, Cambridge. 1864-1869.

The present collection embraces chronicles compiled in religious houses in England during the thirteenth century. These distinct works are ten in number. The extreme period which they embrace ranges from the year 1 to 1492.

87. *MAGNA VITA S. HUGONIS EPISCOPI LINCOLNIENSIS.* Edited by the Rev. JAMES F. DIMOCK, M.A., Rector of Barnburgh, Yorkshire. 1864.

This work is valuable, not only as a biography of a celebrated ecclesiastic but as the work of a man, who, from personal knowledge, gives notices of passing events, as well as of individuals who were then taking active part in public affairs.

88. *CHRONICLES AND MEMORIALS OF THE REIGN OF RICHARD THE FIRST.* Vol. I.:—*ITINERARIUM PEREGRINORUM ET GESTA REGIS RICARDI.* Vol. II.:—*EPISTOLÆ CANTUARIENSES*; the Letters of the Prior and Convent of Christ Church, Canterbury; 1187 to 1199. Edited by the Rev. WILLIAM STUBBS, M.A., Vicar of Navestock, Essex, and Lambeth Librarian. 1864–1865.

The authorship of the Chronicle in Vol. I., hitherto ascribed to Geoffrey Vinseauf, is now more correctly ascribed to Richard, Canon of the Holy Trinity of London.

The letters in Vol. II., written between 1187 and 1199, had their origin in a dispute which arose from the attempts of Baldwin and Hubert, archbishops of Canterbury, to found a college of secular canons, a project which gave great umbrage to the monks of Canterbury.

89. *RECUEIL DES CRONIQUES ET ANCHIENNES ISTORIES DE LA GRANT BREITAIGNE A PRESENT NOMME ENGLETERRE, par JEHAN DE WAURIN.* Vol. I. Albina to 688. Vol. II., 1899–1422. Vol. III., 1422–1481. Edited by WILLIAM HARDY, F.S.A. 1864–1879. Vol. IV., 1481–1447. Vol. V., 1447–1471. Edited by Sir WILLIAM HARDY, F.S.A., and EDWARD L. C. P. HARDY, F.S.A. 1884–1891.

40. *A COLLECTION OF THE CHRONICLES AND ANCIENT HISTORIES OF GREAT BRITAIN, NOW CALLED ENGLAND, by JOHN DE WAURIN.* Vol. I., Albina to 688. Vol. II., 1899–1422. Vol. III., 1422–1481. (Translations of the preceding Vols. I., II., and III.) Edited and translated by Sir WILLIAM HARDY, F.S.A., and EDWARD L. C. P. HARDY, F.S.A. 1864–1891.

41. *POLYCHRONICON RANULPHI HIGDEN, with Trevisa's Translation.* Vols. I. and II. Edited by CHURCHILL BABINGTON, B.D., Senior Fellow of St. John's College, Cambridge. Vols. III.–IX. Edited by the Rev. JOSEPH RAWSON LUMBY, D.D., Norrisian Professor of Divinity, Vicar of St. Edward's, Fellow of St. Catharine's College, and late Fellow of Magdalene College, Cambridge. 1865–1886.

This chronicle begins with the creation, and is brought down to the reign of Edward III. It enables us to form a very fair estimate of the knowledge of history and geography which well-informed readers of the fourteenth and fifteenth centuries possessed, for it was then the standard work on general history.

The two English translations, which are printed with the original Latin, afford interesting illustrations of the gradual change of our language, for one was made in the fourteenth century, the other in the fifteenth.

42. *LE LIVRE DE REIS DE BRITTANIE E LE LIVRE DE REIS DE ENGLETERRE.* Edited by the Rev. JOHN GLOVER, M.A., Vicar of Brading, Isle of Wight, formerly Librarian of Trinity College, Cambridge. 1865.

These two treatises are valuable as careful abstracts of previous historians. Some various readings are given which are interesting to the philologist as instances of semi-Saxonised French.

43. *CHRONICA MONASTERII DE MELSA AB ANNO 1150 USQUE AD ANNUM 1406,* Vols. I.–III. Edited by EDWARD AUGUSTUS BOND, Assistant Keeper of Manuscripts, and Egerton Librarian, British Museum. 1866–1868.

The Abbey of Meaux was a Cistercian house, and the work of its abbot is a faithful and often minute record of the establishment of a religious community, of its progress in forming an ample revenue, of its struggles to maintain its acquisitions, and of its relations to the governing institutions of the country.

44. *MATTHEI PARISIENSIS HISTORIA ANGLORUM, SIVE UT VULGO DICITUR, HISTORIA MINOR.* Vols. I., II., and III. 1067–1258. Edited by Sir FREDERICK MADDEN, K.H., Keeper of the Manuscript Department of the British Museum. 1866–1869.

45. *LIBER MONASTERII DE HYDA: A CHRONICLE AND CHARTULARY OF HYDE ABBEY, WINCHESTER, 455–1023.* Edited by EDWARD EDWARDS. 1866.

The "Book of Hyde" is a compilation from much earlier sources which are usually indicated with considerable care and precision. In many cases, however, the Hyde

Chronicle appears to correct, to qualify, or to amplify the statements which, in substance, he adopts.

There is to be found, in the "Book of Hyde," much information relating to the reign of King Alfred which is not known to exist elsewhere. The volume contains some curious specimens of Anglo-Saxon and mediæval English.

46. **CHRONICON SCOTORUM: A CHRONICLE OF IRISH AFFAIRS**, from the earliest times to 1185; and **SUPPLEMENT**, containing the events from 1141 to 1150. *Edited, with Translation, by WILLIAM MAUNSELL HENNESSY, M.R.I.A.* 1866.

47. **THE CHRONICLE OF PIERRE DE LANGTOFT, IN FRENCH VERSE, FROM THE EARLIEST PERIOD TO THE DEATH OF EDWARD I.** Vols. I and II. *Edited by THOMAS WRIGHT, M.A.* 1866-1868.

It is probable that Pierre de Langtoft was a canon of Bridlington, in Yorkshire, and lived in the reign of Edward I., and during a portion of the reign of Edward II. This chronicle is divided into three parts; in the first, is an abridgment of Geoffrey of Monmouth's "Historia Britonum"; in the second, a history of the Anglo-Saxon and Norman kings, to the death of Henry III.; in the third, a history of the reign of Edward I. The language is a curious specimen of the French of Yorkshire.

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